

1 IN THE COUNTY OF WASHINGTON

2
3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY
4 VIRGINIA GAS AND OIL BOARD
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8 APRIL 20, 2004
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12 APPEARANCES:

13 MASON BRENT - OIL & GAS REPRESENTATIVE
14 DENNIS GARBIS - PUBLIC MEMBER
15 BILL HARRIS - PUBLIC MEMBER
16 DONALD RATLIFF - COAL REPRESENTATIVE
17 JAMES MCINTRYE - PUBLIC MEMBER
18 BENNY WAMPLER - DIRECTOR OF THE DMME & CHAIRMAN
19

20 SHARON PIGEON, COUNSEL FOR THE BOARD WITH THE ATTORNEY
21 GENERAL'S OFFICE
22 BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL AND
23 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD
24
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11 **Approve minutes from last hearing 121

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14 ***Attached is a copy of the docket

15

16

17 BENNY WAMPLER: We'll go ahead and get started.

18 Good morning. My name is Benny Wampler. I'm Deputy Director
19 for the Department of Mines, Minerals and Energy, and
20 Chairman of the Gas and Oil Board. I'll ask the members to
21 introduce themselves, starting with Mr. Brent.

22 MASON BRENT: My name is Mason Brent. I'm from
23 Richmond, and I represent the gas and oil industry.

24 DENNIS GARBIS: My name is Dennis Garbis. I'm a

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1 public member from Fairfax County.

2 SHARON PIGEON: I'm Sharon Pigeon. I'm with the
3 office of the Attorney General.

4 JIM MCINTYRE: Jim McIntyre, Wise, Virginia,
5 citizen appointee.

6 BOB WILSON: I'm Bob Wilson. I'm the Director of
7 the Division of Gas and Oil, and Principal Executive to the
8 staff of the Board.

9 BENNY WAMPLER: The first item on today's agenda is
10 a quarterly report to the Board on the escrow account as
11 administered by Wachovia Bank escrow agent for the Board.
12 Mr. Wilson, you have distributed copies?

13 BOB WILSON: Yeah, you each have in front of you
14 the copy of this quarter's report. I'll go over it very
15 briefly for the record. We had an opening balance as of
16 December the 31st, 2003, of \$8,156,166.54. We received
17 deposits of \$451,957.10; and received interest payments of
18 \$16,874.14. On the other side of the ledger, we...what's
19 shown on the account overview here as refunds. These were
20 actually disbursements that went out last quarter under Board
21 order, \$17,926.84. We also had fees in the amount of \$30,000
22 removed from the account. As you know, this is a running
23 accounting, \$5,000 per month for the fees. They only remove
24

1 those twice a year. Our closing balance was \$8,577,070...I'm
2 sorry, \$8,577,070.94. The interest rate right now has risen
3 to a whopping .92%. As you can see, we're barely breaking
4 even on that when our interest at \$16,874 just exceeds the
5 \$15,000 fees that we're paying. However, we're on the
6 positive side.

7 There's one note there. We had a situation brought
8 to our attention whereby funds had been being placed into an
9 improper account. This is due to the way they were submitted
10 to the bank. We had that corrected. They included that in
11 the note here that...where they refer to tracts K-10 and K-12
12 should actually be units K-10 and K-12. But that was squared
13 away.

14 There's one other item that I would like to mention
15 in regard to the escrow account. We have been dealing with
16 the Internal Revenue Service relative to the furnishing forms
17 1099 at the end of the year relative to payments that had
18 been from the escrow account. This was something that wasn't
19 anticipated in the original contracts or our dealings with
20 these things. Normally, 1099s are paid or are sent out by
21 the paying party when payments are made directly to owners.
22 Since there's an interim step in here, there's a question as
23 to who's responsible for this. The service has yet to give

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1 me a final ruling on that. But it appears that this is going
2 to be the Board's responsibility and thus the bank's
3 responsibility under contract to the Board as the persons who
4 are handling the account. This is a unique situation to the
5 folks that I've been doing with, too. We've had...I've dealt
6 with IRS people from Dallas to Philadelphia and we still
7 haven't quite gotten this straightened out. However, in
8 today's disbursement proceedings and all future ones, we will
9 be needing to point out in our orders in our proceedings that
10 we need to get...we need to be furnished with social security
11 numbers for all recipients or taxpayer identification numbers
12 if they happen to be businesses, which we will get under
13 separate cover. They will not be a part of the order. These
14 will be furnished to the bank so that 1099s can be sent out
15 under the usual confidentiality of identifying numbers and
16 that sort of thing. We would not keep those on record, but
17 they would need to be filed and if the recipients choose not
18 to file the numbers with us, then they would be subject to
19 withholding of, and I think it's 30%, by the bank when
20 these...the moneys are paid out. But as I said, we're still
21 in negotiation. We're still in...have some questions about
22 the exact procedure that need to be followed. But somewhere,
23 there is going to be a responsibility for these 1099s. I

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1 think it's going to fall on us basically, but then to the
2 bank as our agent. I'll obviously let you know how that pans
3 out. But we do need to start immediately making this
4 announcement and requesting the social security number, and
5 stating in the order that if this is not supplied, then the
6 money is subject to withholding.

7 MASON BRENT: Anything you have to do
8 retroactively?

9 BOB WILSON: We are going to attempt to get the
10 social security numbers for those who have been paid out this
11 year. What we're going to try to do is start with this
12 calendar year doing the proper procedure. The service has
13 requested that we provide them with information regarding
14 disbursements for the last three years. They don't think
15 they probably want to pursue it any further back than that.
16 But...and their reaction was that they probably would not
17 come in with enforcement action or anything like that. They
18 would probably write a letter to these folks stating that if
19 they had not filed on this money they received, they needed
20 to do so.

21 SHARON PIGEON: Did you say that the contract we
22 currently have with the bank does provide for them providing
23 this service without any additional---?

24

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1 BOB WILSON: It does not.

2 SHARON PIGEON: Okay, it does not.

3 BOB WILSON: It does not provide for that, no.

4 This is something that we're going to have to deal with the

5 bank. I don't know what their reaction will be on that when

6 you talk to somebody official. But the only people that I

7 have talked to has been to receive information about their

8 procedures. I have not actually gone to them with the

9 proposition that they need to supply these. We'll do that in

10 a bit higher level.

11 BENNY WAMPLER: Other questions from members of the

12 Board?

13 (No audible response.)

14 BENNY WAMPLER: Thank you. The next item on the

15 agenda is a petition from Equitable Production Company for a

16 well location exception, proposed well V-503809, docket

17 number VGOB-04-0316-1270. We'd ask the parties that wish to

18 address the Board in this matter to come forward at this

19 time.

20 JIM KISER: Mr. Chairman and members of the Board,

21 Jim Kiser on behalf of Equitable Production Company. Our

22 witness in this matter will be Mr. Don Hall. We do have an

23 exhibit that I will go ahead and pass out now.

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1 BENNY WAMPLER: The record will show there are no
2 others. You may proceed.

3 JIM KISER: I guess we need to swear Mr. Hall.
4 (WITNESS IS DULY SWORN.)

5

6 DON HALL
7 having been duly sworn, was examined and testified as
8 follows:

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. KISER:

11 Q. Mr. Hall, if you'd state your name for the
12 record, who you're employed by and in what capacity.

13 A. My name is Don Hall. I'm employed by
14 Equitable Production as district landman.

15 Q. And are you familiar with the application we
16 filed here seeking a location exception for well V-503809?

17 A. Yes.

18 Q. And do your responsibilities with Equitable
19 include the land involved here in this unit and the
20 surrounding area?

21 A. Yes.

22 Q. And have all interested parties been
23 notified as required by Section 4(b) of the Virginia Gas and

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1 Oil Board regulations?

2 A. Yes.

3 Q. Would you indicate for the Board the
4 ownership of the oil and gas underlying this unit, which
5 we're going to force pool after this hearing?

6 A. Copy of the Exhibit B.

7 Q. So, refer the Board to Exhibit B, which
8 would be attached to the application for 04-0316-1271?

9 A. We have 71.79%.

10 Q. No, no. The ownership, there's what, 54
11 tracts in this unit?

12 A. Oh, yes. Yes, it's 54 tracts.

13 Q. And as far as the ownership underlying the
14 oil and gas, we'll just refer the Board to Exhibit B of the
15 force pooling application, correct?

16 A. Correct.

17 Q. Now, does Equitable have the right to
18 operate any reciprocal wells, that being Equitable well
19 number V-3808?

20 A. Yes.

21 Q. Okay. Are there any correlative rights
22 issues?

23 A. No.

24

1 Q. Could you explain for the Board in
2 conjunction with the Exhibit that we just passed out why
3 we're seeking this location exception?

4 A. Well, the...what exhibits you have is our
5 well plat overlaying a typographic map on a 400 scale. You
6 see the V-503809 is highlighted in the center of that circle.
7 If we continue the direction from 3808, which is also shown
8 on that map, 560 feet almost to the south, the legal location
9 would be in the middle of the road there and among all those
10 small lots and house and so forth. So, it was not a
11 practical place to put the location.

12 Q. And in the event the location exception were
13 not granted, would you project the estimated loss of reserves
14 resulting in waste?

15 A. 650,000,000 cubic feet.

16 Q. And what is the total depth of this well
17 under the plan of development?

18 A. 5927 feet.

19 Q. And is the applicant requesting that this
20 location exception cover conventional gas reserves to include
21 the designated formations from the surface to the total depth
22 drilled?

23 A. Yes.

24

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1 Q. Have permits been applied for?

2 A. Yes.

3 Q. In your opinion, would the granting of this

4 location exception be in the best interest of preventing

5 waste, protecting correlative rights, and maximizing the

6 recovery of the gas reserves underlining the unit for V-

7 503809?

8 A. Yes.

9 JIM KISER: Nothing further of this witness at this

10 time, Mr. Chairman.

11 BENNY WAMPLER: Questions from members of the

12 Board?

13 MASON BRENT: What did you say the estimated

14 reserves were?

15 DON HALL: 650,000,000 cubic feet.

16 MASON BRENT: 650,000,000?

17 DON HALL: Uh-huh.

18 BENNY WAMPLER: You're showing that you're still

19 staying within Tract 1, is that correct?

20 JIM KISER: Yes.

21 DON HALL: Yes, the well is in Tract 1.

22 BENNY WAMPLER: And who is that?

23 DON HALL: A Guy Fatonie.

24

1 BENNY WAMPLER: How did you know that?

2 DON HALL: Because I have a plat here with the

3 names on it.

4 BENNY WAMPLER: Is it numbered, yours numbered?

5 DON HALL: Yes.

6 BENNY WAMPLER: Ours aren't numbered.

7 DON HALL: I've got a new plat to pass out.

8 BENNY WAMPLER: Okay.

9 DON HALL: I probably should have done that with

10 this one.

11 JIM KISER: I think it's attached to the force

12 pooling application.

13 DON HALL: Would you like to look at this now?

14 BENNY WAMPLER: No. Other questions from members

15 of the Board?

16 MASON BRENT: Do you know what the elevation of

17 this well is relative to that other one?

18 DON HALL: I don't know the relativity of it. I

19 don't think I even have the...the elevation of the well at

20 3809 is 2108 feet. I'm not sure what the elevation of the

21 other one is.

22 BENNY WAMPLER: Anything further?

23 JIM KISER: Mr. Chairman, we'd ask that the

24

1 application be approved as submitted.

2 BENNY WAMPLER: Is there a motion?

3 JIM MCINTYRE: So moved.

4 DENNIS GARBIS: Second.

5 BENNY WAMPLER: Motion to approve and second. Any
6 further discussion?

7 (No audible response.)

8 BENNY WAMPLER: All in favor, signify by saying
9 yes.

10 (All members signify by saying yes.)

11 BENNY WAMPLER: Opposed, say no.

12 (No audible response.)

13 BENNY WAMPLER: You have approval. The next item
14 on the agenda is a petition from Equitable Production for
15 creation and pooling of a conventional gas unit V-503809,
16 docket number VGOB-04-0316-1271. We'd ask the parties that
17 wish to address the Board in this matter to come forward at
18 this time.

19 JIM KISER: Mr. Chairman and members of the Board,
20 Jim Kiser and Don Hall, again, on behalf of Equitable
21 Production. This is a force pooling for the well that we
22 just sought a location exception for. Mr. Hall is passing
23 out a revised plat and revised set of exhibits that include
24

1 Exhibit B, Exhibit B-2, Exhibit B-3 and Exhibit E. There
2 were some questions...did your packet contain an AFE?

3 BOB WILSON: No.

4 JIM KISER: Here's an AFE as Exhibit C.

5 BENNY WAMPLER: The record will show there are no
6 others. You may proceed.

7

8 DON HALL

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. KISER:

11 Q. Mr. Hall, if you'd again state your name for
12 the record, who you're employed by and in what capacity?

13 A. My name is Don Hall. I'm employed by
14 Equitable Production Company as District Landman.

15 Q. And do your responsibilities include the
16 land involved here and in the surrounding area?

17 A. They do.

18 Q. Are you familiar with the application that
19 we filed seeking the establishment of a unit and pooling any
20 unleased interest for EPC well number V-503809, which was
21 dated February the 13th, 2004?

22 A. Yes.

23 Q. Is Equitable seeking to force pool the
24

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1 drilling rights underlying the unit as depicted at Exhibit A,
2 that being the plat to the application?

3 A. Yes.

4 Q. Does Equitable own drilling rights in the
5 unit involved here?

6 A. We do.

7 Q. Now, prior to filing the application, were
8 efforts made to contact each of the oil and gas interest
9 owners within the unit and an attempt made to work out a
10 voluntary agreement with them?

11 A. Yes.

12 Q. What is the interest of Equitable that's
13 under lease in unit at this time?

14 A. 71.790084%.

15 Q. And are all the unleased parties set out in
16 Exhibit B-3?

17 A. Yes.

18 Q. And what is the percentage of the unit that
19 remains unleased at this time?

20 A. 28.209916%.

21 Q. Now, this is slightly different than the
22 leased and unleased percentages at the time the application
23 was filed. Can you point out for the Board what has
24

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1 transpired since we filed this application in February?

2 A. Well, it was continued last month because we
3 found an additional tract that we initially didn't have,
4 which would be Tract 54 on the plat and on the exhibit. In
5 addition to that, we found that one of the tracts, Tract 5,
6 had been sold. We notified the new owner. We also located
7 some heirs that we listed as unknown at the time of the
8 application. Those are all set out. On Exhibit B-2 is added
9 or dismissed parties.

10 Q. And then B-3 was amended to show the
11 additional leases that were picked up?

12 A. Yes. That's correct, yes.

13 Q. And then B amended just to show the new
14 percentages of leased and unleased?

15 A. That's correct.

16 Q. So, the exhibits that were just passed out,
17 the revised set of exhibits, to the Board would present an
18 accurate picture of where we are on this unit at this time?

19 DON HALL: That's correct.

20 BENNY WAMPLER: Was there any change in the plat
21 map?

22 DON HALL: We added a Tract 54, which reduced
23 another tract, which made a change.

24

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1 BENNY WAMPLER: And does that copy of the exhibit
2 need to be in the preceding case as well?

3 DON HALL: Probably.

4 JIM KISER: The plat needs to be, yeah.

5 BENNY WAMPLER: Yes. That's what I was getting at
6 earlier. I was just going to wait. I just decided to wait
7 until we got here. So, you do need that plat?

8 JIM KISER: Right. And the plat needs---.

9 BENNY WAMPLER: And treated as an exhibit?

10 JIM KISER: ---to be an amendment to the
11 application for the location exception.

12 BENNY WAMPLER: Okay, go ahead.

13 Q. Now, Mr. Hall, do we still have some unknown
14 interest owners within this unit?

15 A. Yes.

16 Q. Were reasonable and diligent efforts made
17 and sources checked to identify and locate any unknown heirs
18 including primary sources, such as deeds records, probate
19 records, assessor's records, treasurer's records and
20 secondary sources such as telephone directories, city
21 directories, family and friends?

22 A. Yes.

23 Q. In your professional opinion, was due
24

1 diligence exercised to locate each of the respondents named
2 in Exhibit B, B-2 and B-3?

3 A. Yes.

4 Q. Now, are the addresses set out in Exhibit B
5 to the application the last known addresses for the
6 respondents?

7 A. They are.

8 Q. Are you requesting this Board to force pool
9 all unleased interest as listed in Exhibit B-3?

10 A. Yes.

11 Q. Now, are you familiar with the fair market
12 value of drilling rights in the unit here and in the
13 surrounding area?

14 A. Yes.

15 Q. Could you advise the Board as to what those
16 are?

17 A. A five dollar bonus, a five year term and a
18 one-eighth royalty.

19 Q. Did you gain your familiarity by acquiring
20 oil and gas leases, coalbed methane leases and other
21 agreements involving the transfer of drilling rights in the
22 unit involved here and in the surrounding area?

23 A. Yes.

24

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1 Q. In your opinion, do the terms you have
2 testified to represent the fair market value of and the fair
3 and reasonable compensation to be paid for drilling rights
4 within this unit?

5 A. They do.

6 Q. Now, as to those interest owners who have
7 not voluntarily agreed to lease, do you recommend...who are
8 listed at Exhibit B-3, do you recommend they be allowed the
9 following options with respect to their ownership interest
10 within the unit: one, direct participation; two, a cash bonus
11 of five dollars per net mineral acre, plus a one-eighth of
12 eight-eighths royalty; or three, in lieu of a cash bonus and
13 a one-eighth of eight-eighths royalty, share in the operation
14 of the well on a carried basis as carried operator under the
15 following conditions: Such carried operator shall be
16 entitled to his share of production from the tracts pooled
17 accruing to his interest exclusive of any royalty or
18 overriding royalty reserved in any leases, assignments
19 thereof, or agreements relating thereto of such tracts but
20 only after the proceeds applicable to his share equal, A),
21 300% of the share of such cost applicable to the interest of
22 a carried operator of a leased tract or portion thereof; or
23 B), 200% of the share of such cost applicable to the interest
24

1 of the carried operator of an unleased tract or portion
2 thereof?

3 A. Yes.

4 Q. Do you recommend that the order provide that
5 the elections by respondents be in writing and sent to the
6 applicant at Equitable Production Company, 1710 Pennsylvania
7 Avenue, Charleston, West Virginia 25328, attention Melanie
8 Freeman, Regulatory?

9 A. Yes.

10 Q. Should this be the address for all
11 communications with the applicant concerning any force
12 pooling order?

13 A. Yes.

14 Q. Do you recommend that the order provide that
15 if no written election is properly made by a respondent, then
16 such respondent should be deemed to have elected the cash
17 royalty option in lieu of participation?

18 A. Yes.

19 Q. Should the unleased respondents be given 30
20 days from the date of the execution of the Board order to
21 file their written elections?

22 A. Yes.

23 Q. If an unleased respondent elects to
24

1 participate, should they be given 45 days to pay their
2 proportionate share of well cost?

3 A. Yes.

4 Q. Does the applicant expect any party electing
5 to participate to pay in advance that party's share of
6 completed well cost?

7 A. Yes.

8 Q. Should the applicant be allowed 120 days
9 following the recordation date of the Board order, and
10 thereafter annually on that date until production is
11 achieved, to pay or tender any cash bonus becoming due under
12 the force pooling order?

13 A. Yes.

14 Q. Do you recommend that the order provide that
15 if the respondent elects to participate but fails to pay
16 their proportionate share of well cost satisfactory to the
17 applicant for payment of those costs, then their election to
18 participate should be treated as having been withdrawn and
19 void, and such respondent should be treated just as if no
20 initial election had been filed, that is deemed to have
21 leased?

22 A. Yes.

23 Q. Do you recommend the order provide that
24

1 where a respondent elects to participate but defaults in
2 regard to the payment of well costs, any cash sum becoming
3 payable to such respondent be paid within 60 days after the
4 last date on which such respondent could have paid or made
5 satisfactory arrangement for the payment of those well costs?

6 A. Yes.

7 Q. Okay, in this particular situation, it's a
8 conventional well, and we do have some unknown interests.
9 So, the Board does need to establish a escrow account into
10 which any proceeds attributable to those unknown interests
11 can be paid, is that correct?

12 A. That's correct.

13 Q. And who should be named the operator under
14 any force pooling order?

15 A. Equitable Production Company.

16 Q. And what is the total depth of the proposed
17 well under the plan of development?

18 A. 5927 feet.

19 Q. Again, the estimated reserves for this unit?

20 A. 650,000,000.

21 Q. Now, are you familiar with the well costs
22 for this well?

23 A. Yes.

24

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1 Q. Has an AFE been reviewed, signed and
2 submitted to the Board as Exhibit C?

3 A. It has.

4 Q. Was this AFE prepared by an engineering
5 department knowledgeable in the preparation of AFEs and
6 knowledgeable in particular in regard to well costs in this
7 area?

8 A. Yes.

9 Q. In your professional opinion, does this AFE
10 represent a reasonable estimate of the well cost under the
11 plan of development?

12 A. It does.

13 Q. Could you state for the Board at this time
14 both the dry hole cost and the completed well cost for this
15 well?

16 A. The dry hole cost is \$299,327, and the
17 completed well cost is \$447,842.

18 Q. Do these costs anticipate a multiple
19 completion?

20 A. They do.

21 Q. Does your AFE include a reasonable charge
22 for supervision?

23 A. Yes.

24

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1 Q. In your professional opinion, would the
2 granting of this application be in the best interest of
3 conservation, the prevention of waste and the protection of
4 correlative rights?

5 A. Yes.

6 JIM KISER: Nothing further of this witness at this
7 time, Mr. Chairman.

8 BENNY WAMPLER: What is your total depth?

9 DON HALL: 5927 feet.

10 BENNY WAMPLER: The party that you dismissed, is
11 that Tract 5? When you talked about it earlier, I don't
12 think you said who it was?

13 DON HALL: Yes.

14 BENNY WAMPLER: But on your B-2 you show that you
15 added Danny Wayne Heiman or Hillman?

16 DON HALL: Yes, Danny Wayne Heiman acquired the
17 property from Dezra Mullins.

18 JIM KISER: Dezra Mullins.

19 DON HALL: So, in Exhibit B-2, in the added and
20 dismissed parties, we dismissed Dezra Mullins since her
21 property is now owned by Danny Wayne Heiman. Then we added
22 Donald Tucker as that new tract on that exhibit.

23 JIM KISER: The rest of the dismissals are on 16

24

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1 with the additional leases.

2 DON HALL: Yeah, those are leased since the
3 application.

4 BENNY WAMPLER: Questions from members of the
5 Board?

6 MASON BRENT: Why are the percentages of leased and
7 unleased on the revised Exhibit B the same as the percentages
8 on the original B?

9 DON HALL: They shouldn't be.

10 JIM KISER: They shouldn't be.

11 MASON BRENT: Because Tract 5, you leased that new
12 party. You didn't have the other one leased.

13 JIM KISER: Let's see.

14 DON HALL: They shouldn't be. They shouldn't be.

15 JIM KISER: They are, Don. Now, wait a minute.

16 DON HALL: The Exhibit B that we filed, the
17 percentage leased was 70.81% rounded off and this one has
18 71.79%.

19 MASON BRENT: It's the same in mine, the original
20 one I got and this.

21 JIM KISER: Hummm. You know what happened
22 probably, when we had five additional people to notify,
23 that's why we continued it. We sent it to you all, too. So,

24

--

1 he probably got the revised---.

2 BENNY WAMPLER: We got the revised one in here in
3 our packet.

4 JIM KISER: Yeah. So, that's all you probably got
5 is all revised. You probably never got the---.

6 MASON BRENT: The original?

7 JIM KISER: Yeah.

8 BENNY WAMPLER: Other questions?
9 (No audible response.)

10 BENNY WAMPLER: Do you have anything further?

11 JIM KISER: Mr. Chairman, we'd ask that the
12 application be approved as submitted with the revised set of
13 exhibits.

14 BENNY WAMPLER: Is there a motion for approval?

15 JIM McINTYRE: So moved.

16 BENNY WAMPLER: Motion for approval. Is there a
17 second?

18 DENNIS GARBIS: Second.

19 BENNY WAMPLER: Any further discussion?
20 (No audible response.)

21 BENNY WAMPLER: All in favor, signify by saying
22 yes.

23 (All members signify by saying yes.)

24

1 BENNY WAMPLER: Opposed, say no.
2 (No audible response.)
3 BENNY WAMPLER: You have approval. We're going to
4 go ahead and finish yours and move on to number---.
5 BEN KENNEDY: Mr. Chairman, is there any way you
6 can turn the volume up on those mikes. It's hard for us to
7 hear back here.
8 BENNY WAMPLER: I'm sorry, they're not...they just
9 record. They don't project. I'm sorry. The acoustics---.
10 BEN KENNEDY: You can't hardly hear either one of
11 these two gentlemen.
12 ZELDRA KENNEDY: The gentlemen with their back to
13 us, we can't hardly hear them.
14 BENNY WAMPLER: Yeah. We'll ask them to speak up a
15 little bit more. Sometimes they---.
16 BEN KENNEDY: I'm sorry, I interrupted you, but we
17 had trouble hearing them.
18 BENNY WAMPLER: That's okay.
19 JIM KISER: That's the first time anybody has ever
20 complained about not being able to hear me.
21 BENNY WAMPLER: These are just recording mikes,
22 unfortunately. The next item on the agenda is a petition
23 from Equitable Production Company for creation and pooling of
24

1 a conventional gas unit V-535657, docket number VGOB-04-0420-
2 1279. We'd ask the parties that wish to address the Board in
3 this matter to come forward.

4 Just so that you folks understand what we're doing,
5 we're finishing up with Equitable since they're already up
6 here rather than move people back and forth and back and
7 forth. So, we're on number eleven if you're keeping track on
8 the agenda we're going by. We'll go back and pick up at the
9 beginning just as soon as we finish with them.

10 Go ahead and introduce yourself.

11 JIM KISER: Mr. Chairman, again, Jim Kiser and Don
12 Hall on behalf of Equitable Production Company. Mr. Hall is
13 passing out a revised AFE for this well, which I think was
14 revised to include what, pipeline cost?

15 DON HALL: Yes. We have several AFEs in this batch
16 that have been revised because of the fact that the pipeline
17 cost wasn't included initially.

18 JIM KISER: All set?

19 (No audible response.)

20

21 DON HALL

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. HALL:

24

--

1 Q. Mr. Hall, again, state your name, who
2 employed by, and in what capacity?

3 A. My name is Don Hall. I'm employed by
4 Equitable Production Company as District Landman.

5 Q. Are you familiar with our application
6 seeking the establishment of the unit and seeking to force
7 pool any unleased interest for EPC well number V-535657,
8 which was dated March the 19th, 2004?

9 A. Yes.

10 Q. Is Equitable seeking to force pool the
11 drilling rights underlying the unit as depicted at Exhibit A,
12 that being the plat to the application?

13 A. We are.

14 Q. Does Equitable own drilling rights in the
15 unit involved here?

16 A. We do.

17 Q. Now, prior to filing the application, were
18 efforts made to contact each of the respondents in the unit
19 and an attempt made to work out an agreement regarding the
20 development of the unit?

21 A. Yes.

22 Q. What is the interest of Equitable under
23 lease within this unit?

24

--

1 A. We have 93.93% leased.

2 Q. And are all the unleased parties set out in
3 Exhibit B-3?

4 A. Yes.

5 Q. Are you familiar with the ownership of
6 drilling rights of parties other than Equitable in this unit?

7 A. Yes.

8 Q. And what percentage of the unit remains
9 unleased?

10 A. 6.07%.

11 Q. In this particular well we do not have any
12 unknown interest, is that correct?

13 A. That's correct.

14 Q. In your professional opinion, was due
15 diligence exercised to locate each of the respondents named
16 in Exhibit B and B-3?

17 A. It was.

18 Q. Are you requesting this Board to force pool
19 all unleased interest listed at Exhibit B-3?

20 A. Yes.

21 Q. And again, are you familiar with the fair
22 market value of drilling rights in the unit here and in the
23 surrounding area?

24

1 A. Yes.

2 Q. Could you advise the Board again as to what
3 those are?

4 A. A five dollar bonus, a five year term, and a
5 one-eighth royalty.

6 Q. In terms...in your opinion, do the terms
7 you've just testified to represent the fair market value of
8 and the fair and reasonable compensation to be paid for
9 drilling rights within this unit?

10 A. They do.

11 JIM KISER: Now, Mr. Chairman, at this time, I'd
12 ask that the testimony that we just...was just taken in VGOB
13 docket number 04-0316-1271, that being the force pooling of
14 well V-503809, considering...or concerning the election
15 options and time periods that the force pooled parties have
16 in which to make those election options be incorporated for
17 purposes of this hearing.

18 BENNY WAMPLER: They will be incorporated.

19 Q. Okay, Mr. Hall, in this particular case it's
20 a conventional well. We don't have any unknown interest
21 owners. We do not need the Board to establish an escrow
22 account, is that correct?

23 A. That's correct.

24

1 Q. And who should be named the operator under
2 any force pooling order?

3 A. Equitable Production Company.

4 Q. And what's the total depth of this well
5 under the applicant's plan of development?

6 A. The total depth has been revised a little
7 bit from the application. As you can see on the AFE, it's
8 now 5413 feet as opposed to...it was initially applied for as
9 5363.

10 Q. And the estimated reserves for this unit?

11 A. 300,000,000 cubic feet.

12 Q. Are you familiar with the well cost for this
13 well?

14 A. Yes.

15 Q. Has an AFE been reviewed, signed and revised
16 and submitted to the Board?

17 A. It has.

18 Q. And does this AFE, in your opinion,
19 represent a reasonable estimate of the well cost for this
20 well?

21 A. It does.

22 Q. Could you state for the Board what these
23 costs are?

24

1 A. The dry hole cost is \$218,287 and the
2 completed well cost is \$413,149.

3 Q. Do your costs anticipate a multiple
4 completion?

5 A. They do.

6 Q. Does your AFE include a reasonable charge
7 for supervision?

8 A. Yes.

9 Q. In your professional opinion, would the
10 granting of this application be in the best interest of
11 conservation, the prevention of waste and protection of
12 correlative rights?

13 A. It would.

14 JIM KISER: Nothing further of this witness at this
15 time, Mr. Chairman.

16 BENNY WAMPLER: Questions from members of the
17 Board?

18 MASON BRENT: Where on your AFE do you show the
19 depth other than---?

20 DON HALL: Looking at line item two.

21 MASON BRENT: Yeah.

22 DON HALL: 5413 feet at---.

23 MASON BRENT: At 1540. Why isn't it up here with
24

1 all the other profile information---?

2 DON HALL: I---.

3 MASON BRENT: ---where it says "depth"?

4 DON HALL: I don't know. It should be---.

5 JIM KISER: Where?

6 DON HALL: ---on top of the---.

7 MASON BRENT: Up here. Yeah, well type, depth

8 and---.

9 DON HALL: Okay, yeah.

10 MASON BRENT: ---and (inaudible).

11 DON HALL: I'm not sure.

12 MASON BRENT: Has this well been permitted yet? I

13 know there's an application pending.

14 DON HALL: The application is pending.

15 MASON BRENT: But you don't whether it has been

16 approved yet or not, or permitted?

17 DON HALL: I don't think so.

18 BENNY WAMPLER: Other questions?

19 (No audible response.)

20 BENNY WAMPLER: Do you have anything further?

21 JIM KISER: Mr. Chairman, we'd ask that the

22 application be approved as submitted with the revised AFE.

23 BENNY WAMPLER: Is there a motion?

24

--

1 JIM MCINTYRE: Motion to approve.

2 BENNY WAMPLER: Is there a second?

3 DENNIS GARBIS: Second.

4 BENNY WAMPLER: Second. Any further discussion?

5 (No audible response.)

6 BENNY WAMPLER: All in favor, signify by saying

7 yes.

8 (All members signify by saying yes.)

9 BENNY WAMPLER: Opposed, say no.

10 (No audible response.)

11 BENNY WAMPLER: You have approval. The next item

12 on the agenda is a petition from Equitable Production Company

13 for creation and pooling of coalbed methane...or coalbed gas

14 unit V...VC-535625, docket number VGOB-04-0420-1280. We'd

15 ask the parties that wish to address the Board in this matter

16 to come forward at this time.

17 JIM KISER: Mr. Chairman, Jim Kiser and Don Hall

18 again on behalf of Equitable Production Company. Again, we

19 have a revised AFE. This is a pooling of a coalbed methane

20 well where the only unleased interests in the unit are

21 unknown parties.

22 BENNY WAMPLER: The record will show there are no

23 others. You may proceed.

24

1

2

DON HALL

3

DIRECT EXAMINATION

4 QUESTIONS BY MR. HALL:

5

Q. Mr. Hall, you're familiar with the

6

application we filed seeking a pooling order for EPC well

7

number VC-535625, which was dated March the 19th, 2004?

8

A. Yes.

9

Q. Is Equitable seeking to force pool the

10 drilling rights underlying the unit as depicted at Exhibit A

11 of the application?

12

A. Yes.

13

Q. And this is a well that is subject to the

14 Nora Coalbed Methane Gas Field Rules?

15

A. Yes.

16

Q. Does Equitable own drilling rights in the

17 unit involved here?

18

A. We do.

19

Q. Now, prior to filing the application, were

20 efforts made to contact each of the respondents owning an

21 interest in the unit and an attempt made to work a voluntary

22 agreement regarding the development of the unit?

23

A. Yes.

24

--

1 Q. What is the interest of Equitable under
2 lease in the gas estate within the unit?

3 A. We have 91.30% interest leased.

4 Q. And the interest of Equitable under lease in
5 the coal estate?

6 A. 100%.

7 Q. And are all the unleased parties set out at
8 Exhibit B-3?

9 A. They are.

10 Q. Now, are you familiar with the ownership of
11 drilling rights of parties other than Equitable underlying
12 this unit?

13 A. Yes.

14 Q. And what percentage of the gas estate is
15 there that remains unleased?

16 A. 8.71%.

17 Q. And that is represented in Tracts 3 and 4
18 under the ownership of some unknown heirs?

19 A. That's correct.

20 Q. Okay. Now, were reasonable and diligent
21 efforts made and sources checked to identify and try to
22 locate these unknown heirs including primary sources such as
23 deed records, probate records, assessor's records,
24

1 treasurer's records and secondary sources such as telephone
2 directories, city directories, family and friends?

3 A. Yes.

4 Q. In your professional opinion, was due
5 diligence exercised to locate each of the respondents named
6 in Exhibit B and B-3?

7 A. They were.

8 Q. And are the addresses set out in Exhibit B
9 to the application the last known addresses for the
10 respondents?

11 A. Yes.

12 Q. Are you requesting this Board to force pool
13 all the unleased interest listed at Exhibit B-3?

14 A. We are.

15 Q. Again, are you familiar with the fair market
16 value of drilling rights in the unit here and in the
17 surrounding area?

18 A. Yes.

19 Q. And are what those are?

20 A. A five dollar bonus, a five year term, and a
21 one-eighth royalty.

22 Q. In your opinion, do the terms you've just
23 testified to represent the fair market value of and the fair

24

--

1 and reasonable compensation to be paid for drilling rights
2 within this unit?

3 A. They do.

4 JIM KISER: At this time, Mr. Chairman, we'd ask
5 again that the testimony regarding election options afforded
6 any unleased parties be incorporated.

7 BENNY WAMPLER: They will be incorporated.

8 Q. Okay, Mr. Hall, in this particular case, we
9 do need the Board to establish an escrow account?

10 A. That's correct.

11 Q. And that is due to both conflicting
12 claimants and unknown interests?

13 A. That's correct.

14 Q. And should we...if this order be approved,
15 who should be named the operator?

16 A. Equitable Production Company.

17 Q. And what's the total depth of the proposed
18 well?

19 A. 2830 feet.

20 Q. And the estimated reserves for the unit?

21 A. 300,000,000 cubic feet.

22 Q. Are you familiar with the well cost for the
23 well?

24

--

1 A. Yes.

2 Q. Has an AFE been reviewed, signed and
3 submitted to the Board, a revised AFE?

4 A. Yes.

5 Q. And was this AFE prepared by an engineering
6 department knowledgeable in the preparation of AFEs and
7 knowledgeable in regard to well costs in this area?

8 A. Yes.

9 Q. And does it, in your opinion, represent a
10 reasonable estimate of the well cost?

11 A. It does.

12 Q. Could you state for the Board what those
13 are?

14 A. The dry hole costs are \$131,752 and the
15 completed well cost is \$226,340.

16 Q. 226,340?

17 A. Uh-huh.

18 Q. And do these costs anticipate a multiple
19 completion?

20 A. They do.

21 Q. Does your AFE include a reasonable charge
22 for supervision?

23 A. It does.

24

1 Q. In your professional opinion, would the
2 granting of this application be in the best interest of
3 conservation, the prevention of waste and protection of
4 correlative rights?

5 A. Yes.

6 JIM KISER: Nothing further of this witness at this
7 time, Mr. Chairman.

8 BENNY WAMPLER: On your Exhibit B, the last page
9 where you did your total percentage of leased and unleased---

10 DON HALL: Uh-huh.

11 BENNY WAMPLER: ---would you look at those numbers
12 and tell us what they need to be?

13 DON HALL: On the gas estate or the---?

14 BENNY WAMPLER: On the gas estate, I'm sorry.

15 DON HALL: The---.

16 JIM KISER: It should be right.

17 DON HALL: That should be right, 91.3 and 8.71.

18 SHARON PIGEON: That doesn't add up.

19 BENNY WAMPLER: It doesn't add to...it's a little
20 over a 100%.

21 DON HALL: Well, obviously, the rounding didn't get
22 to---.

23 JIM KISER: I guess it would be 8.7.

24

--

1 DON HALL: Yeah. When you get into the---.
2 JIM KISER: We'll revise that.
3 DON HALL: ---four or five digits after the
4 decimal---.
5 BENNY WAMPLER: I know. Other questions from
6 members of the Board.
7 JIM KISER: We'll revise that, Mr. Chairman.
8 MASON BRENT: Who were the conflicting claimants?
9 You just testified that they were both unknown and
10 conflicting? All I see are unknowns.
11 DON HALL: If you look at---.
12 JIM KISER: Tract 1, there's a conflicting claim.
13 DON HALL: Tract 3.
14 JIM KISER: Tract 3.
15 DON HALL: Tract 4.
16 JIM KISER: And Tract 4.
17 DON HALL: Look at Exhibit E.
18 JIM KISER: You have---.
19 MASON BRENT: Okay.
20 JIM KISER: You got it? Okay.
21 MASON BRENT: And you're proposing to put this well
22 outside the drilling window?
23 DON HALL: Yes, sir.

24

--

1 JIM KISER: Yes. And he'll...Equitable will seek a
2 location exception in the permitting process if they haven't
3 already.

4 DON HALL: This well has not been applied for yet.

5 BENNY WAMPLER: Other questions from members of the
6 Board?

7 (No audible response.)

8 BENNY WAMPLER: Do you have anything further?

9 JIM KISER: Mr. Chairman, we'd ask that the
10 application be approved as submitted with the caveat that we
11 will submit a revised Exhibit B to reflect a 100% instead of
12 a 100.1 or 01, or whatever it is.

13 BENNY WAMPLER: And we have the revised AFE.

14 JIM KISER: What's wrong with the AFE?

15 DON HALL: He said and the---.

16 JIM KISER: Oh, and...I'm sorry, and the revised
17 AFE that has been submitted.

18 BENNY WAMPLER: Right. Is there a motion?

19 JIM MCINTYRE: Motion to approve.

20 BENNY WAMPLER: Is there a second?

21 DENNIS GARBIS: Second.

22 BENNY WAMPLER: Second. Any further discussion?

23 (No audible response.)

24

1 BENNY WAMPLER: All in favor, signify by saying
2 yes.
3 (All members signify by saying yes.)
4 BENNY WAMPLER: Opposed, say no.
5 (No audible response.)
6 BENNY WAMPLER: You have approval. The next item
7 on the agenda is a petition from Equitable Production Company
8 for creation and pooling of coalbed methane gas unit VC-
9 535872, docket number VGOB-04-0420-1281. We'd ask the
10 parties that wish to address the Board in this matter to come
11 forward at this time.
12 JIM KISER: Mr. Chairman and Board members, again,
13 Mr. Kiser and Mr. Hall for Equitable.
14 BENNY WAMPLER: Your name, sir?
15 LOYALL COUNTS: My name is Loyall Counts. I'm here
16 on behalf of Loyall R. and Linda S. Counts, 1634 Echoes
17 Court, Kingsport, Tennessee.
18 BENNY WAMPLER: Thank you.
19 JIM KISER: Again, we have a revised AFE or Exhibit
20 C to the application.
21 (Don Hall passes out exhibits.)
22 JIM KISER: Give me just a minute here.
23 (Don Hall and Jim Kiser confer.)
24

1 JIM KISER: I got a copy of this this morning.
2 BENNY WAMPLER: Go ahead and take time to read it.
3 JIM KISER: I've read it.
4 BENNY WAMPLER: Okay.
5 (Chairman confers with the Board.)
6 (Jim Kiser and Don Hall confer.)
7 JIM KISER: Okay.
8 BENNY WAMPLER: The record will show there are no
9 others. You may proceed.

10

11

12

13

14 DON HALL

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. HALL:

17 Q. Mr. Hall, you're familiar with the
18 application we filed seeking a pooling order for EPC well
19 number VC-535872, which was dated March the 19th, 2004?

20 A. Yes.

21 Q. Is Equitable seeking to force pool the
22 drilling rights underlying the unit as depicted at Exhibit A,
23 that being the plat to the application?

24

--

1 A. We are.

2 Q. And does Equitable own drilling rights in
3 the unit involved here?

4 A. Yes.

5 Q. Now, prior to filing the application, were
6 efforts made to contact each of the respondents owning an
7 interest in the unit and an attempt made to work out an
8 agreement regarding the development of the unit?

9 A. Yes.

10 Q. What is the interest of Equitable under
11 lease in the gas estate within the unit?

12 A. 54.87...54.82%.

13 Q. And the interest under lease to Equitable in
14 the coal estate in the unit?

15 A. 100%.

16 Q. And all the unleased parties are set out in
17 Exhibit B-3?

18 A. They are.

19 Q. And what percentage of the gas estate
20 remains unleased at this time?

21 A. 45.18%.

22 Q. Now, we do have some unknown interest owners
23 in this particular unit. Were reasonable and diligent
24

1 efforts made and sources checked to identify and locate any
2 unknown heirs including primary sources such as deed records,
3 probate records, assessor's records, treasurer's records and
4 secondary sources such as telephone directories, city
5 directories, family and friends?

6 A. Yes.

7 Q. In your professional opinion, was due
8 diligence exercised to locate each of the respondents named
9 in the exhibits attached hereto?

10 A. Yes.

11 Q. Are the addresses set out in Exhibit B to
12 the application the last known addresses for the respondents?

13 A. Yes.

14 Q. Are you requesting this Board to force pool
15 all unleased interest listed at Exhibit B-3?

16 A. Yes.

17 Q. Again, are you familiar with the fair market
18 value of drilling rights in the unit here and in the
19 surrounding area?

20 A. Yes.

21 Q. And are what those are?

22 A. A five dollar bonus, a five year term, and a
23 one-eighth royalty.

24

--

1 Q. In your opinion, do the terms you've just
2 testified to represent the fair market value of and the fair
3 and reasonable compensation to be paid for drilling rights
4 within this unit?

5 A. Yes.

6 JIM KISER: Again, Mr. Chairman, we'd ask that the
7 testimony regarding election options afforded any unleased
8 parties previously taken be incorporated for purposes of this
9 hearing.

10 BENNY WAMPLER: They will be incorporated.

11 Q. Okay, in this particular unit, Mr. Hall, we
12 have both conflicting claims to the coalbed methane and
13 unknown interest owners. So, are you asking the Board to
14 establish a escrow account for these particular tracts?

15 A. Yes.

16 Q. And who should be named operator under the
17 force pooling order?

18 A. Equitable Production Company.

19 Q. And the total depth of the proposed well?

20 A. 2628 feet.

21 Q. The estimated reserves for the unit?

22 A. 350,000,000 cubic feet.

23 Q. Are you familiar with the well cost for the
24

--

1 well under the plan of development?

2 A. Yes.

3 Q. Has an AFE been reviewed, signed and
4 submitted to the Board this morning?

5 A. It has.

6 Q. Does this AFE, in your opinion, represent a
7 reasonable estimate of the well costs?

8 A. It does.

9 Q. Could you state for the Board what those
10 costs are?

11 A. The dry hole costs are \$109,511 and the
12 completed well cost is \$244,7...278.

13 Q. 244,278?

14 A. That's correct.

15 Q. Do these costs anticipate a multiple
16 completion?

17 A. They do.

18 Q. Does your AFE include a reasonable charge
19 for supervision?

20 A. Yes.

21 Q. In your professional opinion, would the
22 granting of this application be in the best interest of
23 conservation, the prevention of waste and protection of
24

1 correlative rights?

2 A. Yes.

3 JIM KISER: Nothing further of this witness at this
4 time, Mr. Chairman.

5 BENNY WAMPLER: Questions from members of the
6 Board?

7 (No audible response.)

8 MASON BRENT: I have just one question.

9 BENNY WAMPLER: Mr. Brent.

10 MASON BRENT: Mr. Hall, we've seen a lot of revised
11 AFEs today, and they're all upping the estimated cost.
12 What's...what's the driver there?

13 DON HALL: Well, we've recently had some change in
14 our engineering departments as to the people who were
15 preparing the AFEs, and several of these got out without all
16 the cost involved. We have...since the application, we've
17 revised them to catch all the cost. For the most part, I
18 think it's pipeline costs was the main thing that was left
19 out.

20 MASON BRENT: Okay.

21 BENNY WAMPLER: Other questions from members of the
22 Board?

23 (No audible response.)

24

--

1 BENNY WAMPLER: Mr. Counts, did you have any
2 questions of this witness?

3 LOYALL COUNTS: No. All I want to...I think the
4 letter speaks fairly well for itself. I would like to ask
5 that that be incorporated as a divergent claim into their
6 Exhibit E as an amendment to it or whatever.

7 BENNY WAMPLER: Mr. Kiser, do you want to address
8 that?

9 JIM KISER: Well, I mean, it obviously can't...it
10 can be an exhibit to the Board hearing, but it can't be an
11 exhibit to our application because we didn't file it. We
12 don't have any---.

13 LOYALL COUNTS: They were notified on 3/10/2004 of
14 this and it didn't get incorporated, apparently.

15 JIM KISER: Well, let's address his letter. Tract
16 2 is being escrowed because we have Mr. and Mrs. Counts
17 owning the gas estate and Pine Mountain owning the coal.

18 LOYALL COUNTS: I believe the only thing that
19 changes, Jim, is the nine acre claim that I'm making there in
20 the...of that 35 and adding lot four.

21 JIM KISER: Okay, yeah, let's see, two and five are
22 already being escrowed. So---?

23 LOYALL COUNTS: That's correct.

24

--

1 JIM KISER: ---four is what he's requesting that
2 we...and you're requesting that we escrow that is under the
3 theory that you're the surface owner?
4 LOYALL COUNTS: That's correct.
5 JIM KISER: Well, we're going to stick with our
6 application. That's a ownership issue that the Board doesn't
7 have any jurisdiction to address. If we can't settle it
8 between you and the operator, Equitable, then that would be
9 something where you'd have to seek your remedy in Circuit
10 Court.
11 LOYALL COUNTS: I agree.
12 JIM KISER: Okay.
13 BENNY WAMPLER: That will be escrowed?
14 JIM KISER: No, it won't be escrowed.
15 SHARON PIGEON: Right now it's scheduled to be
16 escrowed.
17 BENNY WAMPLER: I understand. But he's requesting
18 that it be escrowed because he's saying he's the surface
19 owner. Typically the Board...the Board---.
20 LOYALL COUNTS: Well, there are other...there are
21 other ownership issues of the coalbed.
22 BENNY WAMPLER: In Tract 4?
23 LOYALL COUNTS: In Tract 4.
24

1 BENNY WAMPLER: Do you want to address that? Are
2 you aware of that, Mr. Kiser?

3 JIM KISER: He...Mr. Counts and I met and he stated
4 that, I guess, because of some surveying and some mapping
5 issues that he felt there may be some issues there as to
6 whether he and/or the McReynolds heirs own part of that, but
7 I guess he's backed off that. Now, I guess in accordance
8 with your letter, you're just making the claim that as a
9 surface owner, you own it?

10 LOYALL COUNTS: Well, the other claimant has two
11 arguments. I'm addressing their claim, not necessarily my
12 claim under CNR. That's another discussion for another day.
13 But I would assume that there are forthcoming discussions
14 between us---.

15 JIM KISER: Yeah, there are.

16 LOYALL COUNTS: ---and I think that this probably
17 will be resolved without any further issues, probably. At
18 that case, I'm not against pooling at all.

19 BENNY WAMPLER: Well, we'll incorporate your letter
20 into the record. We'll have it as part of the record and
21 your statements, of course, will be part of the record.

22 LOYALL COUNTS: Right.

23 JIM KISER: And we are preparing, both my office
24

1 and Mr. Hall's office, to meet with Mr. Counts again on all
2 his concerns.

3 BENNY WAMPLER: Any other questions or comments
4 from members of the Board?

5 (No audible response.)

6 BENNY WAMPLER: Do you have anything further?

7 JIM KISER: Mr. Chairman, we'd ask that the
8 application be approved as submitted with the revised AFE.

9 BENNY WAMPLER: Is there a motion?

10 JIM MCINTYRE: Motion to approve.

11 BENNY WAMPLER: Is there a second?

12 DENNIS GARBIS: Second.

13 BENNY WAMPLER: Any further discussions?

14 (No audible response.)

15 BENNY WAMPLER: All in favor, signify by saying
16 yes.

17 (All members signify by saying yes.)

18 BENNY WAMPLER: Opposed, say no.

19 (No audible response.)

20 BENNY WAMPLER: You have approval.

21 LOYALL COUNTS: Thank you.

22 BENNY WAMPLER: The next item on the agenda is a
23 petition from Equitable Production Company for creation and
24

1 pooling of coalbed methane gas unit VC-535907, docket number
2 VGOB-04-0420-1282. We'd ask the parties that wish to address
3 the Board in this matter to come forward at this time.

4 JIM KISER: Mr. Chairman and Board members, again,
5 Jim Kiser and Don Hall on behalf of Equitable Production
6 Company. We don't have anything revised here, Don?

7 DON HALL: No.

8 BENNY WAMPLER: The record will show there are no
9 others. You may proceed.

10 DON HALL

11 DIRECT EXAMINATION

12 QUESTIONS BY MR. HALL:

13 Q. Mr. Hall, you're familiar with the
14 application we filed seeking a pooling order for EPC well
15 number VC-535907, which was dated March the 19th, 2004?

16 A. Yes.

17 Q. Is Equitable seeking to force pool the
18 drilling rights underlying the unit as depicted at Exhibit A,
19 that being the plat to the application?

20 A. Yes.

21 Q. Does Equitable own drilling rights in the
22 unit involved here?

23 A. We do.

24

--

1 Q. Now, prior to filing the application, were
2 efforts made to contact each of the interest owners within
3 the unit and an attempt made to work out a voluntary
4 agreement regarding the development of unit?

5 A. Yes.

6 Q. What is the interest under lease to
7 Equitable in the gas estate?

8 A. We have a 100% of the gas leased.

9 Q. And the interest under lease to Equitable in
10 the coal estate?

11 A. 91.6119%.

12 Q. And are all the unleased parties set out at
13 Exhibit B-3 to the application?

14 A. They are.

15 Q. Are you familiar with the ownership of
16 drilling rights of parties other than Equitable underlying
17 this unit?

18 A. Yes.

19 Q. What percentage of the coal estate remains
20 unleased?

21 A. 8.3881%.

22 Q. That includes several unknown entities?

23 A. A couple, yes.

24

--

1 Q. As such, were reasonable and diligent
2 efforts made and sources checked to identify and locate these
3 unknown heirs?

4 A. Yes.

5 Q. In your professional opinion, was due
6 diligence exercised to locate each of the respondents named
7 in the exhibits to the application?

8 A. It was.

9 Q. Are the addresses set out in Exhibit B to
10 the application the last known addresses for the respondents?

11 A. Yes.

12 Q. Are you requesting this Board to force pool
13 all unleased interest listed at Exhibit B-3?

14 A. Yes.

15 Q. Again, are you familiar with the fair market
16 value of drilling rights in the unit here and in the
17 surrounding area?

18 A. Yes.

19 Q. And could you advise the Board what those
20 are?

21 A. A five dollar bonus, a five year term, and a
22 one-eighth royalty.

23 Q. In your opinion, do the terms you've just
24

--

1 testified to represent the fair market value of and the fair
2 and reasonable compensation to be paid for drilling rights
3 within this unit?

4 A. They do.

5 JIM KISER: Mr. Chairman, we'd again ask that the
6 testimony regarding election options and time afforded to
7 make them and the consequences of making them that was
8 previously be incorporated for purposes of this hearing.

9 BENNY WAMPLER: They will be incorporated.

10 Q. Okay, Mr. Hall, in this particular situation
11 we do have an Exhibit E attached for the Board showing what
12 needs to be escrowed. It includes not only a couple of
13 unknown parties, but also conflicting claims in tracts two
14 and three?

15 A. That's correct.

16 Q. The Board does need to establish an escrow
17 account for that purpose?

18 A. Yes.

19 Q. And who should be named operator for this
20 well under any force pooling order?

21 A. Equitable Production Company.

22 Q. And what's the total depth of the well under
23 the plan of development?

24

--

1 A. 1826 feet.

2 Q. The estimated reserves for this unit?

3 A. 250,000,000 cubic feet.

4 Q. Has an AFE been reviewed, signed and

5 submitted to the Board as Exhibit C to the application?

6 A. It has.

7 Q. In your opinion, does this AFE represent a

8 reasonable estimate of the well costs?

9 A. Yes.

10 Q. What are those costs?

11 A. The dry hole cost is \$102,371 and the

12 completed well cost is \$221,648.

13 Q. Do these costs anticipate a multiple

14 completion?

15 A. They do.

16 Q. Does your AFE include a reasonable charge

17 for supervision?

18 A. Yes.

19 Q. In your professional opinion, would the

20 granting of this application be in the best interest of

21 conservation, the prevention of waste and protection of

22 correlative rights?

23 A. Yes.

24

--

1 JIM KISER: Nothing further of this Chairman...of
2 this witness at this time, Mr. Chairman.

3 BENNY WAMPLER: Questions from members of the
4 Board?

5 (No audible response.)

6 BENNY WAMPLER: Do you have anything further?

7 JIM KISER: Mr. Chairman, we'd ask that this
8 application be approved as submitted.

9 BENNY WAMPLER: Is there a motion?

10 JIM McINTYRE: Motion to approve.

11 BENNY WAMPLER: Is there a second?

12 DENNIS GARBIS: Second.

13 BENNY WAMPLER: Motion and second. Any further
14 discussion?

15 (No audible response.)

16 BENNY WAMPLER: All in favor, signify by saying
17 yes.

18 (All members signify by saying yes.)

19 BENNY WAMPLER: Opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have approval. The next item
22 on the agenda is a petition from Equitable Production Company
23 for the creation and pooling of coalbed methane gas unit VC-
24

1 503308, docket number VGOB-04-0420-1283. We'd ask the
2 parties that wish to address the Board in this matter to come
3 forward at this time.

4 JIM KISER: Mr. Chairman and Board members, again,
5 Jim Kiser and Don Hall on behalf of Equitable Production
6 Company.

7

8 DON HALL

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. HALL:

11 Q. Mr. Hall, are you familiar with the
12 application that we filed---?

13 A. Yes.

14 Q. ---seeking a pooling of any unleased
15 interest in this unit, which was dated March the 19th?

16 A. Yes.

17 (Jim Kiser and Don Hall confer.)

18 Q. Is Equitable seeking to force pool the
19 drilling rights underlying the unit as depicted at Exhibit A,
20 that being the plat to the application?

21 A. Yes.

22 Q. Does Equitable own drilling rights in the
23 unit involved here?

24

--

1 A. We do.

2 Q. Now, prior to filing the application, did
3 you attempt to work out a voluntary lease agreement with each
4 of the respondent named having an interest in this unit??

5 A. Yes.

6 Q. And what is the interest that Equitable has
7 under lease within the gas estate?

8 A. We have a 100% of the gas estate leased.

9 Q. And the interest under lease in the coal
10 estate?

11 A. 92.456%.

12 Q. And are all the unleased parties set out in
13 Exhibit B-3?

14 A. Yes.

15 Q. And are you familiar with the ownership of
16 drilling rights of parties other than Equitable within this
17 unit?

18 A. Yes.

19 Q. What is the interest...what is the
20 percentage in the coal estate that remains unleased?

21 A. 7.543668%.

22 Q. Including some of the respondents who were
23 in the previous well that we force pooled?

24

1 A. That's correct.

2 Q. Including the same two unknowns?

3 A. That's correct.

4 Q. And you made the same reasonable and
5 diligent efforts to try to identify those folks?

6 A. Yes.

7 Q. In your professional opinion, was due
8 diligence exercised to locate each of the respondents named
9 herein?

10 A. It was.

11 Q. And are the addresses set out in Exhibit B
12 to the application the last known addresses for the
13 respondents?

14 A. Yes.

15 Q. Are you requesting this Board to force pool
16 all unleased interest listed at Exhibit B-3?

17 A. We are.

18 Q. Are you familiar with the fair market value
19 of drilling rights in this unit?

20 A. Yes.

21 Q. And what are those are?

22 A. A five dollar bonus, a five year term, and a
23 one-eighth royalty.

24

1 Q. In your opinion, does this represent the
2 fair market value of and the fair and reasonable compensation
3 to be paid for drilling rights within this unit?

4 A. Yes.

5 JIM KISER: Mr. Chairman, we'd again ask that the
6 testimony regarding election options afforded any unleased
7 parties be incorporated for purposes of this hearing.

8 BENNY WAMPLER: They will be incorporated.

9 Q. Mr. Hall, again, in this particular case, we
10 have an Exhibit E for escrow purposes attached to our
11 application.

12 A. Yes.

13 Q. And it represents both unknown and
14 conflicting claims to the coalbed methane?

15 A. Yes.

16 Q. Okay. So, the Board needs to establish that
17 account?

18 A. That's correct.

19 Q. And who should be named operator under any
20 force pooling order?

21 A. Equitable Production Company.

22 Q. And the total depth of the well under the
23 plan of development?

24

--

1 A. 1850 feet.

2 Q. Estimated reserves for the unit?

3 A. 275,000,000 cubic feet.

4 Q. Has an AFE been reviewed, signed and
5 submitted to the Board as Exhibit C to the application?

6 A. It has.

7 Q. In your opinion, does it represent a
8 reasonable estimate of the well costs for this well?

9 A. Yes.

10 Q. Could you state for the Board what those
11 are?

12 A. The dry hole cost is \$113,082 and the
13 completed well cost is \$243,474.

14 Q. Do these costs anticipate a multiple
15 completion?

16 A. They do.

17 Q. Does your AFE include a reasonable charge
18 for supervision?

19 A. Yes.

20 Q. In your professional opinion, would the
21 granting of this application be in the best interest of
22 conservation, the prevention of waste and protection of
23 correlative rights?

24

1 A. Yes.

2 JIM KISER: Nothing further of this witness at this
3 time, Mr. Chairman.

4 BENNY WAMPLER: Do you make any distinction in
5 coalbed methane estate only as related to the coal estate?

6 DON HALL: With Pine Mountain we do because when
7 the sale of all their properties was done, Pine Mountain got
8 the oil and gas and the CBM from their fee properties. So,
9 the coal in that case...the coal owner really has no claim
10 for the CBM interest.

11 BENNY WAMPLER: Other questions from members of the
12 Board?

13 MASON BRENT: Is this well proposed to be outside
14 the drilling window? It's hard to tell from the plat.

15 JIM KISER: I believe it is.

16 DON HALL: It's already permitted.

17 JIM KISER: It's already permitted.

18 DON HALL: It's already permitted.

19 MASON BRENT: It hadn't been drilled yet, though,
20 has it?

21 DON HALL: No.

22 JIM KISER: Although it could be.

23 BENNY WAMPLER: What is your total depth again?

24

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1 DON HALL: 1850 feet, I believe. Yeah, 1850.
2 BENNY WAMPLER: Other questions?
3 (No audible response.)
4 BENNY WAMPLER: Do you have anything further?
5 JIM KISER: Mr. Chairman, we'd ask that this
6 application be approved as submitted.
7 BENNY WAMPLER: Is there a motion?
8 JIM MCINTYRE: So moved.
9 BENNY WAMPLER: Motion for approval. Is there a
10 second?
11 DENNIS GARBIS: Second.
12 BENNY WAMPLER: Any further discussion?
13 (No audible response.)
14 BENNY WAMPLER: All in favor, signify by saying
15 yes.
16 (All members signify by saying yes.)
17 BENNY WAMPLER: Opposed, say no.
18 (No audible response.)
19 BENNY WAMPLER: You have approval. The next item
20 on the agenda is a petition from Equitable Production Company
21 for the creation and pooling of conventional gas unit V-
22 502025, docket number VGOB-04-0420-1284. We'd ask the
23 parties that wish to address the Board in this matter to come
24

1 forward at this time.

2 JIM KISER: Mr. Chairman, again, Jim Kiser and Don
3 Hall on behalf of Equitable Production Company.

4 BEN KENNEDY: I'm Ben Kennedy.

5 JACK STANLEY: Jack Stanley.

6 JIM KISER: We've got quite a few revised exhibits
7 to---.

8 ZELDRA KENNEDY: Zeldra Kennedy.

9 JIM KISER: ---submit on this one. This is another
10 one of those---.

11 BENNY WAMPLER: I'm sorry?

12 ZELDRA KENNEDY: Zeldra Kennedy.

13 JIM KISER: This is another well that's got a bunch
14 of tracts.

15 BENNY WAMPLER: Just in case you're not familiar
16 with how we do this, what we'll do is we'll have them to
17 present their case. We'll ask questions. We'll give you an
18 opportunity to present your...make your statements and ask
19 questions, you may have questions.

20 BEN KENNEDY: All right. Thank you.

21 BENNY WAMPLER: Do you want to introduce your other
22 witness?

23 JIM KISER: Well, I don't know whether or not I'm
24

1 going to call him yet. I just wanted him to get down here in
2 case I needed him.

3 BENNY WAMPLER: Okay. Fair enough. You may
4 proceed.

5 DON HALL

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. HALL:

8 Q. Mr. Hall, you're familiar with the
9 application Equitable filed seeking the establishment of a
10 unit and pooling of any unleased interest for EPC well number
11 V-502025, dated March the 19th, 2004?

12 A. Yes.

13 Q. And is Equitable seeking to force pool the
14 drilling rights underlying the unit as depicted at Exhibit A
15 to the application?

16 A. We are.

17 Q. Does Equitable own drilling rights in the
18 unit involved here?

19 A. We do.

20 Q. Now, prior to filing the application, were
21 efforts made to contact each of the respondents in the unit
22 and an attempt made to work out an agreement regarding the
23 development of the unit?

24

--

1 A. Yes.

2 Q. And what is the interest of Equitable
3 currently under lease within the unit?

4 A. We have a 71.692091% leased.

5 Q. And that represents a slightly higher figure
6 than what was leased when we filed the application?

7 A. That's correct.

8 Q. And that will be...that's depicted and
9 denoted for the purposes of the Board's edification on
10 Exhibit B-2, I guess?

11 A. That's correct.

12 Q. Okay. And are all the unleased parties set
13 out in Exhibit B-3?

14 A. Yes.

15 Q. Are you familiar with the ownership of
16 drilling rights of parties other than Equitable underlying
17 this unit?

18 A. Yes.

19 Q. What percentage remains unleased?

20 A. 28.307909%.

21 Q. Okay, we do have some unknown interest
22 owners within this unit?

23 A. That's correct.

24

1 Q. Apparently two. Again, were reasonable and
2 diligent efforts made and sources checked to identify and
3 locate these unknown heirs?

4 A. Yes.

5 Q. In your professional opinion, was due
6 diligence exercised to locate each of the respondents named
7 herein?

8 A. Yes.

9 Q. And are the addresses set out in the revised
10 Exhibit B, that dated 4/19/2004, the last known addresses for
11 the respondents?

12 A. Yes.

13 Q. Are you requesting this Board to force pool
14 all unleased interest listed at the Revised Exhibit B-3?

15 A. Yes.

16 Q. Again, are you familiar with the fair market
17 value of drilling rights in the unit here and in the
18 surrounding area?

19 A. Yes.

20 Q. And could you advise the Board what those
21 are?

22 A. A five dollar bonus, a five year term, and a
23 one-eighth royalty.

24

--

1 Q. In your opinion, do the terms you've
2 testified to represent the fair market value of and the fair
3 and reasonable compensation to be paid for drilling rights
4 within this unit?

5 A. They do.

6 JIM KISER: Again, Mr. Chairman, we'd ask that
7 testimony regarding election options afforded unleased
8 parties be incorporated for purposes of this hearing.

9 BENNY WAMPLER: They will be incorporated.

10 Q. Okay, Mr. Hall, because we have those
11 unknown interests, does the Board to establish an escrow
12 account?

13 A. Because of that and because Tract 18
14 has...has a three way overlap. There's...as you can see in
15 Exhibit E, we've got Tract 18 as being...let me find Exhibit
16 E here. Tract 18 is either ACIN or Pine Mountain or Emory
17 Mullins and others. That's a three way overlap. So, we need
18 to escrow that until such time as we can figure out which one
19 has a superior title.

20 Q. And who should be named operator under any
21 force pooling order?

22 A. Equitable Production Company.

23 Q. The total depth of the proposed well?

24

--

1 A. 5892 feet.

2 Q. The estimated reserves for the unit?

3 A. 450,000,000 cubic feet.

4 Q. Has an AFE been reviewed, signed and
5 submitted, a revised AFE, to the Board this morning?

6 A. Yes.

7 Q. Does this AFE represent a reasonable
8 estimate of the well costs?

9 A. It does.

10 Q. And what are those well costs?

11 A. The dry hole cost is \$230,741 and the
12 completed well cost is \$428,895.

13 Q. And do these costs anticipate a multiple
14 completion?

15 A. They do.

16 Q. Does your AFE include a reasonable charge
17 for supervision?

18 A. Yes.

19 Q. In your opinion, would the granting of this
20 application be in the best interest of conservation, the
21 prevention of waste and protection of correlative rights?

22 A. Yes.

23 JIM KISER: Nothing further of this witness at this
24

1 time, Mr. Chairman.

2 BENNY WAMPLER: Questions from members of the
3 Board?

4 (No audible response.)

5 BENNY WAMPLER: Do you have any questions of this
6 witness?

7 BEN KENNEDY: I'd like to present what...I'd like
8 to present what we have and then ask some questions at the
9 conclusion. Would that be doable?

10 BENNY WAMPLER: That's fine. We'd probably need to
11 get you all sworn in.

12 BEN KENNEDY: Okay.

13 BENNY WAMPLER: Any of you all who are going to
14 make statements.

15 (Ben and Zeldra Kennedy and Jack Stanley are duly
16 sworn.)

17 BENNY WAMPLER: You may proceed.

18 BEN KENNEDY: First of all, I'd like to thank you
19 all for letting us present this to the Board. I'm just going
20 to basically read what I have here and go through that.

21 We just want to present our objection to Equitable
22 Production Company's application to pool the properties
23 drilling a gas well that borders our properties. And as
24

1 citizens of the United States, we feel we have the right to
2 own our land and basically what's under our land. We do own
3 the gas and the oil under there. There's laws to protect our
4 rights. I hope you all do your best effort to recognize
5 these laws.

6 We object to Equitable Production Company
7 presenting an application to you that would permit the
8 company to steal that gas and oil. We did not approach the
9 company and offer this gas and oil for sale. They
10 approached us with a lease in hand in an intimidating and
11 threatening way. What I mean by that is it's not the person
12 that came intimidating us, but the lease itself is
13 intimating, the wording of it, the language of it and that
14 type of thing. We had no input whatsoever on the lease. It
15 was prepared, brought to us and asked to sign. So, we had
16 no input on it. The terms, we had no input on the terms
17 when it was presented to us. The print was small. The word
18 was ambiguous... biguous. It was threatening in the fact
19 that the language was not clear and after reading the first
20 paragraph of the lease, we quickly realized our land rights
21 were in jeopardy. I'll discuss this a little bit later when
22 I go over the objections with the Board. I've got a list of
23 objections that we do have on the application.

24

--

1 We asked too for several explanations on the
2 clauses of the lease and satisfactory answers were not
3 received. Clear explanations were not given.
4 We...basically in this case, my wife and I told the agent we
5 would not sign or consider the lease until several changes
6 were made. We were told that if didn't sign it, Equitable
7 Production Company would drill anyway and our share would be
8 put into escrow until we signed, which we disagreed with
9 because we didn't think it needed to be put into escrow. We
10 were...you know, this was basically blackmail is what I
11 consider it when you say either sign or it goes into escrow
12 and you don't get a penny out of it.

13 In simple layman's terms, Equitable Production
14 Company plans to take something that they don't own, which
15 is our gas and oil. It doesn't belong to them. They have
16 no permission to take it. This is simply a definition of
17 stealing. If this Board approves this application for
18 Equitable Production Company to pool our land and drill
19 without our permission, the Board is promoting and condoning
20 thievery. 45%, which I do disagree with his percentage, of
21 the people that are included in this application did not
22 sign leases. I'll go over that in a few minutes with an
23 exhibit that I have. Why should it be allowed if you vote
24

1 for this application, of course you're promoting something
2 that I think if you really get down and think about it, your
3 heart knows is not right, and you're permitting Equitable
4 Production Company to do something to us that you probably
5 wouldn't have done if it was your land.

6 All of us disagree, of course, on the percentage,
7 which I know is an established percentage, which you have no
8 control over. But 12½ percent of the total of everything we
9 own is not the correct thing to do. That means they get 394
10 million cubic feet of gas and oil and we would be paid on 56
11 million cubic feet, which is a big discrepancies on what
12 they get and what we get. This is, of course, based on a
13 map of their projection. We just don't think this is fair.

14 We disagree with it. Also, you've got to keep in mind the
15 12½ that we get is to be divided among the 78 leased or
16 unleased people. It's not that we get 12½ of that amount.

17 That would be fine, or it wouldn't be fine, but it would be
18 better. But when you divide it among 78 people, that's like
19 if they make a \$100, we get \$.16, and that's not much.

20 Not only is the company robbing us, but they've
21 taken advantage of the honest elderly people in the
22 community who have been raised and practiced throughout
23 their lives to trust people. Some of these elderly people
24

1 cannot even read the lease that they signed. I went and
2 talked to several of the people and they said, "Well, I just
3 signed it because the neighbor signed it." They said, "The
4 neighbor signed, so I signed it. I didn't want to make my
5 neighbors mad." That's basically what was told to us from
6 one of our neighbors. This is not---.

7 ZELDRA KENNEDY: More than one.

8 BEN KENNEDY: ---I won't say it's the truth, but
9 it was told to me, by hearsay that we heard you all signed,
10 so we signed. Then they went to somebody else and, "Well
11 they said you signed, so we signed." We hadn't signed. So,
12 it's kind of a tight knit community there and we're trying
13 to protect our rights within that. But the people have
14 always gotten along well there. When one person does
15 something and they say, "Well, you know, we'll go with their
16 judgment. We don't want to make anybody mad. We'll sign
17 it." I feel that that was done. I don't know for a fact
18 that it was done. But it got back to us that that's the
19 reason that they signed it, because they heard that our
20 family had signed it. This tract is on our family's
21 property. The drill...the well is on my grandfather's
22 property, which was divided among all of the children. One
23 has signed the lease for purposes of drilling the well.

24

--

1 But anyway, you know, I just feel large companies
2 and their corporate lawyers, they know this, they take
3 advantage of the poor Appalachian people thinking, you know,
4 well if they can't read it, they don't know what it
5 says...they don't know what the lease says, so we're going
6 to get them to sign it.

7 So, right now I'll go over a few objections if
8 you'd pass out that packet there and we'll go over it. You
9 all may have some of this in your packets. I don't know if
10 you do or not, but ---.

11 (Zeldra Kennedy passes our exhibits.)

12 BEN KENNEDY: While she's handing that out, I'll
13 mention that the people on the top of the list are the ones
14 has asked me to speak for them, or they will be speaking for
15 themselves here. It's Benny Kennedy, Zeldra Kennedy, Allen
16 Kennedy, Audra Kennedy, Jack Stanley, Bernadine Stanley,
17 Anita Stanley, Wayne Stanley, Anthony Stanley, Harold Lilton
18 Estep, Ketti Estep, Verna Smith and Bennie Smith. They've
19 asked me to present for them since...because of work and
20 other reasons they couldn't be here. Of course, I kind
21 of---.

22 Okay, if you'll notice on the ones that has the
23 list of names at the top. "Proposed activity-pooling
24

1 unleased land for purpose of drilling to remove oil and gas
2 owned by the landowners." Our specific reason for
3 objection: "The oil and gas in question is owned by
4 individuals mentioned above. Leasing of our oil and was not
5 initiated by us and the following objections are issued:"

6 The first one, if you'll notice in the second page
7 she gave you on page one where the applicant...where the
8 application is for the pooling, it says that, "The applicant
9 states that the information on Exhibit B...Exhibit B is the
10 last known address of each owner." Well, I'm not sure on
11 this, but there's a man and a wife, they're divorced at this
12 time and they've lived on Caney Ridge all their life. It's
13 Jean Hill and they had the addresses on it was Sandwich,
14 Illinois. They have never lived there unless there's
15 another man and wife with the same name. They don't know
16 where that address came from. It's on Exhibit B, page five,
17 I think it is. I think you all have Exhibit B he has handed
18 out to you already.

19 BENNY WAMPLER: Yeah, we do.

20 BEN KENNEDY: If you go down to...let me see if I
21 can find it.

22 BENNY WAMPLER: Do you say Roy Hill and---?

23 ZELDRA KENNEDY: I think it's page five.

24

--

1 BEN KENNEDY: Yeah. Yeah.

2 BENNY WAMPLER: It's next to the last---.

3 BEN KENNEDY: Yeah, that's the one. Now, I don't

4 know if they've gotten a response back from those people or

5 not unless it's a different set of people. That's their

6 names and they live...have lived there all their life within

7 a half mile of me. They were never contacted.

8 Another thing, my neighbor to my dad's left side

9 there, he has never been contacted. His name was on this

10 list, Anthony Stanley. As far as I know, he has never been

11 contacted. They live right there within our community.

12 Also, everybody in our community knows each other.

13 I helped Brian out...I think that's his name.

14 ZELDRA KENNEDY: Keith.

15 BEN KENNEDY: Keith, with telling where some

16 people lived and things like that when he came to my house

17 and talked to me about that. We did discuss that we knew

18 most people around. I even took...somebody else came from

19 Equitable Resources at one time and I even went around in

20 the car with him to some neighbors to let them know where

21 they lived and so forth, if I could help them. Anyway, in

22 objection two here, basically it says was due diligence

23 exercised in trying to locate Jean White? I really don't

24

1 think it was if this is the same person, which I don't know
2 why it wouldn't be. Did the company make a bona fide effort
3 to reach an agreement with all unleased parties? If you
4 look on page two of the application under the C part, it
5 says, "Applicant has exercised due diligence to locate each
6 of the oil and gas interest owners named herein at Exhibit
7 B, and has made a bona fide effort to reach an agreement,"
8 now I disagree with that, "with all unleased parties as to
9 pooling their interest for the development and operation
10 herein."

11 Now, first of all, if one of the representatives
12 from Equitable would just read the first sentence on our
13 lease to the Board, the first sentence is all I want you to
14 read where it starts with witness, just only one sentence
15 now.

16 DON HALL: What you got highlighted?

17 BEN KENNEDY: No, the sentence, the whole
18 sentence. Start right there at witness and stop when
19 (inaudible).

20 DON HALL: "That the lessor in consideration one
21 dollar in hand paid by the lessee, receipt of which is
22 hereby acknowledged and covenants and agreements hereinafter
23 contained hereby grants, devises, leases and lets lessee and
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1 successor and assigns all that certain tract of land
2 hereinafter described for the sole and only purpose and with
3 the exclusive right of operating for and producing and
4 marketing oil and gas, coalbed methane gas, and all
5 associated hydrocarbons, and all products produced therewith
6 or which may be derived therefrom, storing gas of any kind
7 regardless of the source thereof in the oil and gas trade
8 including the injecting of gas therein and removing the same
9 therefrom; protecting storage gas, conducting geological and
10 geophysical surveys and expiration, stimulating or
11 fracturing all coal or other strata or formations, pooling
12 or unitizing the leased premises or part thereof with other
13 lands to form operating units for any or all the purposes of
14 this agreement together with the right of way and servitude
15 for pipelines, power line, telephone and telegraph lines,
16 structures, houses and buildings and all other rights and
17 privileges necessary or deemed necessary, incident to or
18 convenient for the economic operation of this land and any
19 other lands; the oil or gas rights of which, or the
20 conveyance of...let's see---.

21 BEN KENNEDY: Or contract.

22 DON HALL: ---conveyance or contract for oil and
23 gas or coalbed methane gas and associated hydrocarbons

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1 within their right to use for such purposes free of charge,
2 oil, gas and water produced from or on the premises and with
3 the right but without obligation either during or after the
4 term hereof to remove all and any property and improvements
5 which lessee, successors, or assigns may place or erect on
6 the premises and plug any well or wells drilled thereon
7 together with the right to transport through the property
8 here now leased any and all gas, oil, gas, coalbed methane
9 gas and other hydrocarbons produced by lessee, successors,
10 and assigns from other property, including the right of way
11 and easement to lay, construct, use, maintain, operate,
12 change, replace and remove pipeline or pipelines for such
13 transportation."

14 BEN KENNEDY: I'll trade with you and give you
15 that copy. Would you hand a copy of this out. That's one
16 sentence, by the way. And our neighbors, folks, they can't
17 read that. They signed it and you go ask them. I'll be
18 happy to entertain from you all what it said. Can you tell
19 me basically what it said? It's one sentence is all it is
20 now, one sentence.

21 JIM KISER: I'm going to object to this line of
22 questioning. First of all, it's a fairly typical granting
23 clause, and not only that, second of all, the Board doesn't
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1 have any jurisdiction over contracts or contractual rights.

2 BEN KENNEDY: I'll agree with him on that fact;
3 however, it said that he made every effort to contact us and
4 work with us on obtaining a lease. Now, my objection to
5 this, I know you all can't change the lease and I don't
6 expect you to change the lease, but I think you need to hear
7 the lease to see why we didn't sign the lease and why we
8 don't think that we've been treated fairly in this, because
9 of the wording in the lease. Now, you're not here to
10 determine if this lease is a good lease or not. But, they
11 brought it up in their application here that they made a
12 bona fide effort to make an agreement with us to get us to
13 lease. Now, they opened up the door, we get to continue
14 with it. I think the lease is very pertinent in this
15 situation. That's the reason I didn't sign the lease. If
16 it had been presented to us in the proper way, if they had
17 taken out what we wanted taken out, if they had revised it
18 the way we asked for it to be revised, then the lease
19 wouldn't have been brought up here today. So, what we
20 objected to in the lease, of course---

21 BENNY WAMPLER: I'll sustain your objection for
22 the record, but we'll hear what he's going to say.

23 BEN KENNEDY: Okay. On the lease, it's just
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1 things like, you know, going over your land and taking your
2 land, having the right to use your water once they get on
3 your land. All of those things, you know, that's our...it's
4 not the gas and oil. They can use it. If it's a big pond
5 there, it says they can use that water free of charge. They
6 can use the spring off my dad's property free of charge.
7 They can use any of this free of charge. So that's one
8 reason we objected to that. And also, the contract in there
9 says we have to pay excise and depletion taxes. I don't
10 know why we would have to pay anything if that company is
11 coming in and getting the profit from it and I'm not getting
12 it, why do I have to pay the excise and depletion taxes.
13 That's on page two if you want to read that, third paragraph
14 down. "Lessee shall pay a proportionate part of all excise
15 depletion taxes." It also says if we lease, that they can
16 come in and drill on our property even though the well
17 wasn't set on our property for the purpose of this lease,
18 but if we lease it, they can pool, and that's in the second
19 paragraph on that same page. "It is agreed that lessee may
20 drill or not lease ...or drill or not drill on the leased
21 premises." Above that it talks about pooling. The purpose
22 they want to pool is so they can lease on our property. We
23 don't want the pooling done because I don't want my property

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1 drilled on. That's what it's saying right here, once they
2 pool us, and this is in the lease. That's what this
3 hearing, I thought, was about was pooling. It says if they
4 pool us together and they can lease our land, then they can
5 drill on our land. That's what it says exactly right there.
6 "It is agreed that they may drill or not drill on the
7 leased premises." Now, if I sign that, that means to me
8 they can drill on me if I'm pooled. They can drill on me,
9 too, according to their contract.

10 Then back here it talks about that five year
11 lease. He mentioned a five year lease there a minute ago.
12 Well, that's not what the contract says here. The contract
13 says on the first page, go back to it. It says, "To have
14 and hold for a period of five years." Then it goes on and
15 says, "And for as long thereafter as the leased premises or
16 other lands which the leased premises or part thereof is
17 pooled or unitized or operated in a search for or production
18 of gas." So it's not five years. Then they've got a clause
19 back here where they get out of it. If you look back on the
20 last page, let's see, the last page. Okay, on the paragraph
21 down, one, two, three, four, fifth paragraph down it says
22 that it's further agreed that the lessee, its successors or
23 assigns should have the right to surrender this lease at any

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1 time." When they pay us a dollar back, they come in drill,
2 put these storage tanks up, do whatever they want. If
3 they're tired of us, they're going to give us a dollar and
4 go away. And it says in our lease they don't have to move
5 the property. They don't have to move buildings. They
6 don't have to move electrical lines. They don't have to
7 move anything. They can break the lease anytime they want
8 to, but we're obligated for five years or ever how long they
9 want us to be leased if you go back to that first page. And
10 it says...I mean, they got the big end of the stick. In
11 other words, they get to come in, they get our property,
12 they do what they want to with us, they lease it, they do
13 this, and then they walk out on us any time they want to.
14 We can't break the lease. They can break it. They can
15 leave us. They give us a dollar and we're gone. That's
16 what it says in my interpretation of it. You want to
17 interpret it. I know some of you all are very highly
18 educated people in here. If you want to interpret that,
19 that's fine. Do you interpret it any other way?

20 JIM KISER: While we're reading the lease, let's
21 have Mr. Hall read a paragraph out of the lease to the Board
22 that was offered to you, the exact lease that was offered to
23 you.

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1 BEN KENNEDY: Okay, go right ahead.

2 DON HALL: It's on the next to last paragraph on
3 the last page. "Not withstanding anything to the contrary
4 contained herein, it is understood and agreed it is
5 expressly provided that the lessee shall not, without
6 written consent of lessor, have the right to use the surface
7 of the land covered hereby, and lessor does hereby release
8 from any obligation contained herein, either expressed or
9 implied, ever to drill or otherwise use the surface of said
10 land for any such purposes if deemed contemplated that the
11 development can be accomplished by pooling the same with
12 other land lease or leases in the immediate vicinity thereof
13 as herein provided or by directional well or wells drilled
14 from the surface location or locations in vicinity of leased
15 premises.

16 JIM KISER: What is known in the industry as a
17 non-surface use lease. That's what was offered.

18 BEN KENNEDY: It was, but however, I asked the
19 land agent to take this first paragraph out.

20 JIM KISER: If we took the first paragraph out, we
21 wouldn't have a lease. That's the granting clause.

22 BEN KENNEDY: The first paragraph is the one that
23 says you can use my land if you want to. I want to make

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1 sure because I don't understand legal terminology. You got
2 to understand, you might be a lawyer, I'm not. I asked him
3 to explain this to me, exactly what it says. I really don't
4 understand if I'm really cleared on that or not. It says
5 that you won't use my surface, but all this other stuff up
6 here says you can. Also, I asked to make sure this was only
7 for the property that I own at the present time, not any
8 future holdings. And I said to specify in this that this
9 includes 4.2 acres that I own. I also asked them to specify
10 damage clause in this because my house is within 250 feet of
11 one stake and 500 feet of the other stake. My house is the
12 closest house to this drilling unit. I asked for damage
13 clause in case something came up. They gave me a water
14 clause there. I asked for that. I also asked that we...the
15 excise and depletion tax be taken out. Now, I don't know,
16 what is that excise and depletion tax?

17 BENNY WAMPLER: We're starting to get
18 into...you're really trying to buy us into the lease. We're
19 not going to go there. We understand your objection that---

20 BEN KENNEDY: Well, I'm just---.

21 BENNY WAMPLER: ---you're really...you're
22 objecting to the fact that they legitimately tried to work
23 out an agreement with you.

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1 BEN KENNEDY: Also, they didn't...I asked for no
2 out of pocket expenses and there's a clause in there that
3 says that the rental exceed something, that they will...that
4 the lessor will have to pay back a certain amount of money.
5 BENNY WAMPLER: Is that your objection number
6 four?
7 BEN KENNEDY: Yes.
8 BENNY WAMPLER: Understand that I'm not trying to
9 cut you off.
10 BEN KENNEDY: I understand.
11 BENNY WAMPLER: I just tell you that we understand
12 your objection, that you're saying you didn't have an
13 opportunity, you had a one way street basically is how I'm
14 interpreting what you're telling me.
15 BEN KENNEDY: That's right.
16 BENNY WAMPLER: They put some things in, but not
17 what you wanted.
18 BEN KENNEDY: I think Keith came to my house two
19 or maybe three times and brought back one lease with water,
20 and the next thing I asked to...the damage clause and other
21 things and he brought back only this that excluded me from
22 surface rights. I don't own the surface rights, which this
23 lease...but it didn't go far enough. That's the reason I
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1 didn't go with the lease.

2 So let's go on then to objection...if you look
3 down to objection five, "Pool all interest in estate for
4 drilling." If you hand out our Exhibit B, I guess. I don't
5 know where they got the figure 45...I mean, 71%. Let me
6 give this out first.

7 While she's handing that out, I also got a letter
8 from Mr. Wilson that if you all approve the application and,
9 I guess, if there's a lease that takes forth from this
10 Board, that we would not be required...we would not be out
11 any expenses on the drilling of the well, personal expenses.
12 I've got this letter if you want it for documentation. I
13 think you're probably aware of what he wrote.

14 BENNY WAMPLER: We are aware of that, yes.

15 BEN KENNEDY: Okay. Now, if you'll go through
16 that with me and let's look at that Exhibit B. I just went
17 down ...I may have to borrow somebody's copy there a
18 minute. She handed all of them out. I thought I had that,
19 but I must not have it. On Exhibit B, I just...on page one
20 I have...I counted---. I don't know if this is the way they
21 do it or not, but I counted---.

22 JIM KISER: It's not.

23 BEN KENNEDY: Well, I want to know why not.

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1 JIM KISER: Well, what you've done...Mr. Kennedy,
2 what you've done is taken a number of interest owners in
3 this unit which is however many there are. I guess 35 and
4 43, so 78 interest owners, and since we have 43 of them
5 leased and 35 of them unleased, you think the percentages
6 should be 55 and 45. The way this is done is by the
7 percentage of the acreage that's within the 112.69 acre unit
8 that's under lease or not leased. It has nothing to do with
9 how many interest owners there are within the unit.

10 BEN KENNEDY: It has a lot to do with my objection
11 because 45% of the people, not the land, I mean it's the
12 people that owns the land; 45% didn't sign a lease, 55% did
13 sign a lease. Now, he's talking about tracts. It's like if
14 a man owned 100 acres, a rich man owned 100 acres, around
15 him was five, six, seven, eight, nine trailers and he wanted
16 his drilled, he'd get it drilled without the consent of any
17 of these people around him because he owns all the land if
18 that's the percentage he goes by. But this is people here.
19 We're talking about people.

20 BENNY WAMPLER: What he's telling you---.

21 JIM KISER: Even your percentages in that regard
22 are wrong because a bunch of these people are listed two
23 times.

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1 BENNY WAMPLER: What he's telling you is the law
2 requires us to go by the percentage of interest in the unit.
3 It's not the number of people at all.

4 BEN KENNEDY: Why is the law like that, do you
5 know?

6 BENNY WAMPLER: It's what the legislators passed.
7 They also passed---.

8 BEN KENNEDY: Virginia legislators or federal?

9 BENNY WAMPLER: They also passed a law that says
10 they can force pool the area that has the surface owner and
11 mineral owner. You can't prevent it.

12 BEN KENNEDY: Well, we wanted to go over that.
13 Now, on something else here, objection six, it says they
14 have the right to elect, if you look at your paper there.

15 JIM KISER: That's you that has the right to
16 elect.

17 BEN KENNEDY: That's right, but I don't have that
18 right to elect. I wish I did.

19 JIM KISER: Well, you will if you're force pooled.

20 BEN KENNEDY: Yeah, force, that's the word force.
21 I don't have the right to elect if I'm forced, you know.
22 That's the word I disagree with. I'm forced. I don't have
23 the right to elect to do this. You just now told me I
24

1 didn't. You said I was forced to do it, so I object to
2 that. I don't have the right to elect.

3 Then the next objection there, grant an operator
4 the right to drill at any legal or specific location on the
5 subject drilling unit. I don't know, if I don't lease, I
6 just need an explanation on that one. If I don't lease, is
7 this saying that they can drill on my property or is that
8 just the one that's signed the lease to drill on his
9 property?

10 JIM KISER: No, if you don't lease and the order
11 gets approved, or you do lease and this order gets approved,
12 because there's other unleased parties that we're attempting
13 to pool, the only place that we will be able to drill is on
14 the location that is depicted on the plat, which is on tract
15 one of that plat.

16 BEN KENNEDY: Okay. Then objection eight, "Make
17 any necessary provisions for escrow of funds." Of course, I
18 don't think I need to give you that, but we have...go ahead
19 and give them that. I was told, he can correct me if I'm
20 wrong, but I asked this specific question, if I don't lease,
21 what happens? He said, "Well, your name will probably go
22 into escrow and it will be held there until you decide to
23 sign the lease." And that's the option I was given if I
24

1 didn't sign the lease. If I'm wrong, I'll be glad to hear.

2 BENNY WAMPLER: Well, there's provisions that
3 people can take money out of escrow. If you stay around
4 today, you'll hear some people applying to get money out of
5 escrow.

6 BEN KENNEDY: Will I be put in escrow? I thought
7 this unknown people---.

8 JIM KISER: No, Mr. Kennedy, you will not. If he
9 did say that, he was incorrect in saying that.

10 BEN KENNEDY: Okay. That's what I wanted to get
11 back there.

12 JIM KISER: Since you are not an unknown interest
13 owner and you're not a conflicting claimant. The only
14 escrow in this unit will be the unknown owners and then that
15 tract 18 that we talked about where we have a physical
16 overlap of the surveys and we've not been able to determine
17 who has the superior title between those parties. So in
18 that case---.

19 BEN KENNEDY: That clarifies that.

20 JIM KISER: ---we're required to escrow that.

21 BEN KENNEDY: I didn't see any need for us to be
22 escrowed if we are pooled.

23 JIM KISER: No.

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1 BEN KENNEDY: We'd still be allowed to get our
2 money, no expenses taken out of it.

3 JIM KISER: Right. Unless...the only way expenses
4 would be taken out is if you were to elect to participate,
5 which means you would be a working interest owner rather
6 than a royalty interest. We can go into that later.

7 BEN KENNEDY: Another thing, I was going to ask
8 you a question. If they use the gas for their own right and
9 they put storage tanks...I'm under an understanding they
10 don't have to pay us for that even though it came out from
11 our property. Will we be paid for gas that's put in the
12 storage tanks?

13 JIM KISER: I can't imagine there'd be any. Don,
14 you want to address that?

15 DON HALL: I guess you're referring to the storage
16 clause in the lease.

17 BEN KENNEDY: Yes.

18 DON HALL: That's not a tank. That's a...a
19 storage provision is in there for in the future if the well
20 is depleted and the storage field is developed in that area,
21 then you can put the gas from other wells back down into the
22 formation and store it there until you're ready to sell it.

23 BEN KENNEDY: How about, I know one person signing
24

1 you're going to pump gas to his house for his home. We
2 asked for that, too. I asked if that could be done. I know
3 another person behind me up here that came with us today and
4 asked if they could get that gas pumped to their house for
5 fuel. Will we be paid for that, or is that gas that's
6 considered yours for your free use, free of charge?

7 DON HALL: I'm not sure, but maybe where the well
8 is the party...does he have a free gas provision? We from
9 time to time put a free gas provision in the lease, but it
10 has to be used on the premises where the well is drilled.

11 BEN KENNEDY: My question is what goes to his
12 house, are we going to get paid a percentage on that gas or
13 is that your free gas, goes to him free?

14 DON HALL: That's taken before it's metered.

15 BEN KENNEDY: So we don't get paid for it.

16 DON HALL: No.

17 BEN KENNEDY: But he gets all that use of it and
18 it comes out from my house, he gets to use it, right?

19 DON HALL: Well, it comes out from his, too.

20 BEN KENNEDY: But he's getting it. I'm not
21 getting it. If I got it, I wouldn't complain either. I
22 wouldn't be here right now. But see, he's getting free gas
23 and it's costing me. It's coming out from under me to keep
24

1 his house warm.

2 Okay, another thing, the land plat is inaccurate
3 and if you'll look at the land plat. I've got those. Okay,
4 let me hand those out here if I can find them. I don't have
5 those, do I? Do you all have the land plat, by the way?

6 JACK STANLEY: You handed out the initial.

7 BEN KENNEDY: Okay, I'm sorry.

8 JOHN STANLEY: The initial exhibit.

9 BEN KENNEDY: On that land plat, if you'll look at
10 plat number two, that's where I live and you see the
11 location of the well straight down below my house. That's
12 about 520 feet. The property line you see some things that
13 looks like little sheds down there I've got highlighted.
14 Those are on my property. How they got off my property, I
15 don't know unless they picked them up and moved them. Also,
16 the line that I got highlighted, the angle of that line is
17 not correct. It should be going the other direction. It
18 slants like down the hill, down the hill coming up the hill
19 to my property line. And so those sheds are actually on my
20 property. You'll notice by the broken lines this has not
21 been surveyed, it's just been plotted. So they didn't
22 actually do any surveying here. And you'll notice on my
23 deed, on the second page back there, I own 4.2 acres, and on
24

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1 the lease it says 2.4 acres. I mean on the Exhibit B it
2 says 2.4 acres, 2.4399. So I just want to object to that
3 because those sheds...I went down and measured the other day
4 every foot that my deed calls for and the sheds are
5 definitely on my property. That, of course, moved my
6 property line down a little tad there, just makes me closer
7 to the well. I just wanted to mention that part.

8 Let's see, what else? Basically that takes care
9 of that part of it, but I just want to mention it's like
10 this thing with the money deal and all that. You know, I
11 know you all know that the company comes out ahead on
12 everything if...the way I figure it, you got 350 million
13 cubic feet projected and I know they got some under contract
14 \$3.28 per thousand cubic feet for five years. That means we
15 get about \$46 a month from...out of that, which is not much
16 money. They get \$1,291,500 if you look at projections on
17 that. I'll hand this out and you can look at that sometime
18 when you get some time. It's not anything...it's just
19 figures, if they want to disagree with it, that's fine, but
20 the well projection is 450 million cubic feet. You take
21 that down to 1,000 cubic feet and multiply it by three...but
22 that's a low projection because down on the bottom, you'll
23 notice it says that in 2004 it should go up to four dollars

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1 and some cents a gallon. I don't know that it is right now.

2 It's probably higher than that. So we're getting a very
3 little amount of money out of what they get out of that
4 thing.

5 One thing I want to ask, too, while I'm here, it
6 just came up on my mind, because I do have water on my
7 property. My dad's got water on their property. Did...have
8 you all ever had any problem with gas getting in water or
9 anything, water wells, or anything like that?

10 JIM KISER: Ever had any problem with water...gas
11 getting into water wells?

12 DON HALL: Not to my knowledge.

13 JIM KISER: Not to your knowledge?

14 DON HALL: Not to my recollection.

15 BEN KENNEDY: Would you hand that out to them,
16 please? You don't know about a 250 million lawsuit you all
17 worked on?

18 DON HALL: That wasn't in Virginia.

19 BEN KENNEDY: I didn't ask Virginia. I said have
20 you all ever any water...gas getting in water wells is my
21 question.

22 JIM KISER: I'm going to object. This is getting
23 ridiculous.

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1 BENNY WAMPLER: The objection is sustained.

2 BEN KENNEDY: No, it's not.

3 BENNY WAMPLER: Well, the objection is sustained.

4 It's not...I mean, you've made your statement that it...you

5 know, that it's happened. What's your point on it?

6 BEN KENNEDY: Okay. I'll tell you. Hand that

7 out.

8 BENNY WAMPLER: I don't know casing laws or

9 anything else in other states. The Board won't know that...

10 what that would be.

11 BEN KENNEDY: Well, let me just tell you. I got a

12 very, very good point here.

13 BENNY WAMPLER: Okay.

14 BEN KENNEDY: Very good. I want you all to take

15 time to read that just briefly. It's real short. The

16 second page is the one I want you to read first and

17 then...well, I don't know, the one about the Kentucky well,

18 which is just across the hill from us, by the way. We

19 border Kentucky. Clintwood borders Kentucky, Kentucky line

20 there. This may be ridiculous to the lawyer over there, but

21 to me it's going... it's not ridiculous, folks. I'm the

22 person that's having to put up with it. He's living

23 someplace else. He doesn't have to worry about getting

24

1 blown up.

2 BENNY WAMPLER: Where are you saying, second page
3 of the news article?

4

5 BEN KENNEDY: It's the first one, I guess, on
6 yours. I got some of them mixed up, I think. Yes, that
7 one. You'll notice there that this person's pump house blew
8 up. He went out and turned on the pump and it blew up and
9 burned him. It's \$207 million lawsuit. Water had seeped
10 in...gas had seeped into the pump house and it blew up when
11 he did that. And I think Kentucky now does have a casing
12 law as a result of this, but it had to go to court to get it
13 done. I don't know if Virginia has got it or not. That's
14 my point. The only thing is, if you look at the other one,
15 also, Hutchinson...now, this is way out of state. This is
16 someplace else. But if you read a little bit on it, it
17 says, "Explosion there resulted..." the gas actually
18 traveled seven miles beneath the city to cause blasts in the
19 town itself. My concern is I have a water well that's
20 inside my house. My house is built on top of it. The well
21 comes under my bedroom. This well is 500 feet at the
22 farthest from my house. If this gas can go seven miles and
23 it says right here, documentation, it went seven miles.

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1 There's cracks. I live on a cliff. Basically my land
2 is...there's a cliff behind my house that goes down to where
3 they're drilling and I'm sure there are some seams of rock
4 in there that's probably fractured, and I really...now, he's
5 not concerned. He says it's getting ridiculous and it may
6 be to him, but if he lived in my house, this well goes in
7 and I get blown up some night, it's not going to be so funny
8 ridiculous to him. I just want to present that to you and
9 let you know that I have an objection to this well and this
10 pooling going on. I just want it on the minutes. I want
11 documentation. They've got it and I want everybody to know
12 that it's been presented to us. And my wife is worried to
13 death. I'm worried to death. My family is worried to death
14 because that well... there's nothing I can do with that
15 well. It's right on... it's in my house. When I bought
16 the house, I didn't know it. One day I went down in the
17 basement and I heard some water trickling and I got to
18 listening and went over in a corner. It's camouflaged.
19 There's a well there. It goes straight down. And
20 horizontally, the distance is not that far to their gas
21 well. Now, if that's ridiculous to him, that's fine. To
22 me, it's a serious problem. I don't want blown up. It's
23 been proven in Kentucky people's got blown up. It's here a
24

1 town got blew up. Mines back there, of course, regulators
2 there every day checking these mines out. They've been
3 blown up. Gas, you can't control it, folks. You might
4 think you've got it under control, but it can go anyplace.

5 BENNY WAMPLER: Is your basement ventilated?
6 That's one thing you definitely want to do.

7 BEN KENNEDY: Got windows.

8 BENNY WAMPLER: Are they open?

9 BEN KENNEDY: No. I can't in the wintertime.

10 ZELDRA KENNEDY: In the wintertime, you can't open
11 the windows.

12 BENNY WAMPLER: Well, you need to vent that well,
13 I can tell you that, irregardless because if you're in an
14 area ...in an area that has gas, that's the one thing we
15 recommend. That's what happens to pump houses, they're not
16 ventilated and they blow up. The house will blow up.

17 BEN KENNEDY: The best ventilation you can get...
18 mines are ventilated too, and they blow up. The only thing
19 is I'm concerned.

20 BENNY WAMPLER: I understand.

21 BEN KENNEDY: I'm concerned with this well.

22 BENNY WAMPLER: You've presented safety concerns.
23 I understand that.
24
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1 BEN KENNEDY: Safety concern, and I just---.

2 ZELDRA KENNEDY: My washer and dryer sits within
3 three to four feet of this well opening and I just have this
4 horrible fear that one day I'm going to go down there doing
5 my laundry, turn on my dryer and that spark is going to
6 spark an explosion if they start drilling and allow that
7 methane to seep into our well, and it's therefore coming
8 into our home.

9 BEN KENNEDY: I'm just going to give this out.

10 JIM KISER: Let me go ahead and address all this
11 if I might, Mr. Chairman. First of all, I apologize. Your
12 safety concerns aren't ridiculous. The fact that you're
13 introducing this evidence of this Kentucky lawsuit is what I
14 find ridiculous. First of all, nothing was proven there.
15 It was settled while it was on appeal. It was not proven
16 that gas that was found in the plaintiff's water well came
17 from any of my clients' wells. Second of all, Virginia, and
18 I'll ask Mr. Hall to go back on the record on this.
19 Virginia does have a water protection casing program that
20 you have to include in your application for a permit and
21 maybe even Mr. Wilson will want to address it, but in
22 your...how many years have you worked for Equitable now,
23 Don?

24

--

1 DON HALL: Almost 33.

2 JIM KISER: And in all your 33 years of working
3 with Equitable, have you ever known of an instance in
4 Virginia where there was an explosion of...from gas, natural
5 gas from one of your wells getting in somebody's water well?

6 DON HALL: No.

7 BENNY WAMPLER: Let me ask you one thing. He
8 brought up the 4.2 acres. You have down here, as I read
9 this, 2.17 acres.

10 ZELDRA KENNEDY: No.

11 BENNY WAMPLER: I'm sorry, 2.4 acres instead of
12 4.2 acres.

13 JIM KISER: Right, and his deed does call for 4.22
14 and his lease...we were going to lease 4.22 because of that,
15 but our survey done by Lehman Kendrick, who is a licensed
16 land surveyor, the survey comes out to that 2. whatever
17 figure.

18 DON HALL: Calculations.

19 JIM KISER: Calculations, yeah.

20 BEN KENNEDY: Why percent?

21 JIM KISER: If he wants to present a licensed land
22 surveyor to survey the dispute, that's fine, but that's---.

23 BEN KENNEDY: My deed is on file at 4.2.

24

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1 JIM KISER: Well.

2 BEN KENNEDY: If you want the survey, you'll have
3 to survey.

4 JIM KISER: He used your deed, I'm sure, in doing
5 his survey and platting this and that's what he says it
6 comes out to.

7 SHARON PIGEON: Was an actual on the ground survey
8 done on this?

9 DON HALL: No.

10 BEN KENNEDY: No survey was done.

11 BENNY WAMPLER: Did you have a certified plat with
12 your deed, do you know?

13 BEN KENNEDY: Not that I know of. It was surveyed
14 when I bought the property. I had it surveyed by a
15 certified surveyor---.

16 BENNY WAMPLER: Okay.

17 BEN KENNEDY: ---and it was recorded in the
18 Clerk's Office over there in the courthouse, and it was
19 certified as 4.2 acres, more or less. And the sheds on that
20 is on my property. Now if they want to come and I'll gladly
21 measure it with them and show them that those sheds are on
22 my property, those buildings, and it's not in the...it's not
23 in there as being on my---. My house there, if you...I
24

--

1 don't know, I don't guess the house is gauged...is it on
2 scale where the house is setting. Is that scaled?

3 DON HALL: Those houses, sheds and so forth, I
4 think are picked up off planametrics off a topographic map
5 and they could be off a little bit on the topographic. It
6 doesn't...they didn't survey those actual locations. They
7 just picked it up off the planametrics. Again, those are
8 located on aerial survey and they may be off a little bit.
9 Probably should be scooted up hill a little bit.

10 BENNY WAMPLER: I don't know how the rest of the
11 Board feels, but to me if he's had a licensed surveyor
12 survey his property and he's got a lease that says he's got
13 4.2 acres, he's got 4.2 acres not 2.4 because you've had
14 somebody pick something up off a topo map. I mean, you
15 know, what I'm saying is you need to survey his property and
16 pay him what---.

17 JIM KISER: Where is his licensed survey?

18 BENNY WAMPLER: Pardon?

19 JIM KISER: Where is your survey?

20 BEN KENNEDY: He's dead.

21 JIM KISER: No, no, where's the one he did?
22 Where's the copy of it?

23 BEN KENNEDY: I've got my deed if that's what
24

--

1 you're talking about.

2 BENNY WAMPLER: No, he's talking about your plat.

3 JIM KISER: It's not attached to the deed.

4 BEN KENNEDY: I don't know whether it's recorded

5 in the courthouse or not. I don't know. We buy property on

6 that mountain, like I said, everybody trusted each other and

7 he surveyed it out, he drew it up and he...this deed was

8 taken back when I bought the property from the previous land

9 owners and so forth and so on.

10 DON HALL: I'm sure Mr. Kendrick used his deed to

11 plot this up. The calculations and the total acreage---.

12 BEN KENNEDY: Mr. Kendrick didn't because that's

13 not the person I called. There's a guy in Wise I called

14 that had information I needed.

15 JIM KISER: I mean for our purposes.

16 BENNY WAMPLER: He's talking about the guy that

17 did theirs.

18 BEN KENNEDY: There was a guy in Wise that we

19 contacted was...what was his name?

20 ZELDRA KENNEDY: I can't recall his name right

21 now, but is he the one that says there was an overlap,

22 something about an overlap.

23 BEN KENNEDY: I don't know, but Mr. Kendrick, I

24

1 know him. He's from our home town. Anyway, I had...mine is
2 recorded at 4.2. Question on that option that we had to
3 lease part, you all approve this and we are basically
4 leased. What does that say?

5 BENNY WAMPLER: If you're deemed to be leased.

6 BEN KENNEDY: Well, what---?

7 BENNY WAMPLER: It's the provisions of the law.
8 Sharon, you want to kind of---.

9 SHARON PIGEON: Well, it is the law in the State
10 of Virginia that they do have the right to force pool.
11 Before that law was passed, it was basically the right of
12 capture, whatever a developer could capture was their gas
13 and they didn't have to pay anyone for that gas. So the
14 State of Virginia has determined that not only is it in the
15 property owner's interest to get a share, and this was a way
16 to force a developer to pay a share to the mineral owners,
17 but also it was in the interest of the State of Virginia to
18 actually develop the resources so that we wouldn't be so
19 totally dependent on foreign sources of energy, obviously.
20 So I understand your problems with the force pooling law.
21 It is ...it's not 100% fair. I don't know if there is a
22 better version out there somewhere. I do know that
23 Virginia's version of this law is what was used as a model
24

1 for the federal law. So apparently, so far no one is coming
2 up with a better suggestion on that. But what they are
3 proposing as far as force pooling is provided for in the law
4 and as far as title disputes or who owns what kinds of
5 rights, this Board's jurisdiction does not cover that. So
6 when you have those kinds of disputes, which continue
7 outside the force pooling law, that's a different matter
8 entirely, those kinds of disputes have to be taken before a
9 circuit court judge.

10 BEN KENNEDY: Well, I'm asking, though, if we're
11 leased, we get the 12 1/2%, we're included on that, right?

12 SHARON PIGEON: That's the total royalty interest.

13 BEN KENNEDY: We're not put into escrow.

14 SHARON PIGEON: You're not put into escrow based
15 on pooling.

16 BEN KENNEDY: Okay.

17 SHARON PIGEON: You'd be put into escrow, a
18 totally separate matter---.

19 BEN KENNEDY: And this---.

20 SHARON PIGEON: ---based on conflicts if there
21 were other people within your tract that conflicted with
22 your title. There was a dispute as to who owned it, or who
23 owned the mineral rights, or coal rights as well, or also,

24

--

1 you could be put into pooling if someone in your tract were
2 unknown, an heir of someone that we had no name for, or if
3 we do have a name but we can't find them, a good address.

4 BEN KENNEDY: They're not allowed to go with the
5 surface heir, this is just to drill under us and get the gas
6 and oil.

7 SHARON PIGEON: They have to have permission.

8 BEN KENNEDY: To go over us on the surface.

9 SHARON PIGEON: To use your surface.

10 BEN KENNEDY: And if we don't...this lease, we
11 have to sign and agree to that you all presented to us?

12 SHARON PIGEON: Well, this lease is no longer part
13 of---.

14 BEN KENNEDY: I mean, your lease.

15 BENNY WAMPLER: He's talking about our Board
16 order.

17 SHARON PIGEON: Our order. All right.

18 BEN KENNEDY: Is that something---?

19 SHARON PIGEON: No, you don't have to sign it,
20 but it is effective at the time of the Board's action. If
21 they approve or disprove, their order becomes effective as
22 of the date of---.

23 BEN KENNEDY: One question to the lawyer here, or
24

1 the representative, coalbed methane gas, that is included in
2 the term gas, right?

3 JIM KISER: It's not included in this order, no.
4 This is for conventional. What will happen is, if the Board
5 approves the order, once they execute it and record it,
6 we'll send a copy of it to you all, to all the pooled
7 parties with a letter that details what your options are.
8 You can elect one of those, or if you decide not to elect
9 any of them, then you end up being deemed to have leased,
10 which means you'll be under the terms that are set out.

11 BEN KENNEDY: Your lease said the term gas used
12 here includes coalbed methane gas.

13 JIM KISER: Well, that's what the lease says, but
14 this order, since it's for a conventional well, would not
15 include that.

16 SHARON PIGEON: This order will only cover
17 conventional gas.

18 BEN KENNEDY: That's all I got. Jack, you got
19 something?

20 JACK KENNEDY: Yeah, I have an objection to the
21 whole application because to my...the way I see things, they
22 have not met section C of their application. "Applicant has
23 exercised due diligence to locate each of the oil and gas
24

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1 interest owners named therein, has made a bona fide effort
2 to reach an agreement with all unleased parties as to
3 pooling their interest for the development and operation of
4 well therein." Mr. Keith came to me three times. I asked
5 him for some specifics on the contract, and again, I know
6 the contract is not of the Board's problem, but this
7 application is what I understand is before the Board and I
8 ask that this application be deemed null and void because
9 they actually did not make a bona fide effort. They just
10 stood down and said "here you go, man, you either sign it or
11 to hell with you," if I have to say that. I probably didn't
12 have to, but that's the impression I got.

13 And also, I have a water well concern on tract 11
14 that I am very concerned with. I live on tract 12, by the
15 way, but I get my water on tract 11, and they drilled a well
16 several years ago. I don't know if where it's...I don't
17 really have a plat, but it's either on 17 or off to the side
18 of 17, and my well, they took all the water out of my well.

19 For a period of about three years, my well was unusable,
20 and I'm afraid, as Mr. Kennedy stated here, when they get to
21 fracing that well and cracking it, I'm afraid my water is
22 going to go down and they don't make any fresh water
23 anymore. And I don't want public water. There's a lot of
24

1 people have public water up there, but I spent a lot of
2 money maintaining this well and I want the well I've got.
3 So just saying, you know, we'll give you public water is not
4 an answer to my interest. And also, the...it only takes
5 about 5,000 cubic feet of gas to heat a house. That's a lot
6 of houses. I asked for gas, too, but with the rising energy
7 costs and everything, I believe it'd be in my best interest
8 and everybody else's that's involved here for this thing to
9 be turned down. I think we'd get more money out of it.
10 That's all I have.

11 BENNY WAMPLER: Thank you. Do you have anything
12 further, Mr. Kiser?

13 JIM KISER: I don't think so, unless there's any
14 additional questions.

15 BENNY WAMPLER: Do Board members have questions of
16 these witnesses?

17 DENNIS GARBIS: Yes, I do, Mr. Chairman.

18 BENNY WAMPLER: Mr. Garbis.

19 DENNIS GARBIS: Early on in your testimony, I
20 think and my hearing is somewhat bad with advanced age, but
21 I believe you implied that the gas would be stolen from you.
22 I don't really think that's accurate. I've been on this
23 Board about 10 years and we've seen various people come
24

1 before the Board, some at 12 ½%, some people say, well,
2 that's too high, others say they're tickled pink to get it,
3 it's not enough. So one could debate that. I would offer
4 to you also that the system that we have is not perfect, but
5 it is very workable and for a lot of reasons I would like
6 you to consider that as a country as a whole because of our
7 energy needs, and if we didn't have some system where we
8 have this procedure to advance, we'd be paralyzed. I mean,
9 we'd have...we would not be able to advance, we wouldn't be
10 able to do...there would be no production at all. And also
11 understand that really from the standpoint of risk, when the
12 companies, and I'm certainly not defending any of the things
13 that you mentioned, I think you brought out some interesting
14 and some good points, but these guys are risk takers and
15 they're willing to step up, take the chance, drill the well
16 with the idea that, yes, they're going to benefit. And in
17 like turn, as they benefit, you benefit. Again, the work
18 percentage, whether it's high or low, that's debatable. We
19 all could have a different opinion on that. But there are
20 two sides to the story, and as I say, having been on this
21 Board for about 10 years, I've seen a lot of different
22 people come before the Board and some people have been very
23 happy, other people would like to have results go a

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1 different way. So, it's a thing that I'd like you to
2 consider that.

3 Mr. Chairman, I would also like to say I am not
4 prepared really to vote on this issue at this point. I
5 would very much like to see, because I think you do have
6 some legitimate concerns, many of which are not under the
7 purview of us to really decide. But I would really like to
8 have maybe Equitable and yourselves get together and try to
9 amicably settle your differences as best you know how,
10 because I think there are some opportunities that maybe you
11 could further negotiate. Maybe if you have an objection to
12 some of these items in here, maybe you could negotiate that
13 away, and maybe there could be another opportunity where I
14 think everybody would potentially benefit from sitting down
15 maybe one or two more times.

16 So, at this point, Mr. Chairman, I'm really
17 reluctant to...I prefer not to really vote on this. I'd
18 like to see maybe an opportunity for everybody to get back
19 together again. So you would feel... and I think Mr.
20 Chairman has been very generous with the time that he's
21 allowed you to come before the Board, and we'd very much
22 like to do that because, as a citizen, you have to feel that
23 you've had your day in court, that you were afforded the

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1 opportunity to present what you felt was important.

2 BEN KENNEDY: Just to respond to the stealing
3 part, I don't know any other way to take it. It belongs to
4 me and I have no way to stop it. It's like if you have your
5 car sitting in the driveway and I come in and said I want to
6 get the gas and oil out of it, I will give you 12 1/2% of
7 what you get...of what I get, I'll get 87%, I'll give you 12
8 1/2% of what's in your car.

9 DENNIS GARBIS: Well, understand that you're not
10 putting any money up either and you're not taking a risk.
11 If these guys drill that well and they come up completely
12 bone dry---.

13 BEN KENNEDY: I take a risk getting blown up, you
14 know.

15 DENNIS GARBIS: And there are some safety issues
16 and I think there are some things...you're not the first
17 person to come along that has basically some problems and
18 some issues, but I mean, smart people are smart enough to
19 kind of take care of those issues. It is a legitimate
20 concern.

21 BEN KENNEDY: Another thing, the Appalachian
22 people are poor. Dickenson County is one of the poorest
23 counties in the United States, and Pittsburgh, Pennsylvania
24

1 is going to get rich off this deal and Dickenson County is
2 not getting anything. I'm not getting anything. Jack's not
3 getting anything. My parents aren't getting...I mean,
4 what's \$30 or \$40 a month, you know? That's not even
5 guaranteed to even get that much. But you're saying it's
6 helping. Yeah, it's helping the big companies. It's
7 helping them get the gas out to people. This gas is
8 shipped. Like we can't...if they'd let us use it in our
9 house, you know, that'd be fair. But they're not. They're
10 shipping it. Where are they shipping it to? I don't know.
11 One person gets the use of this gas. If we was getting the
12 use of it...I can't even get natural gas in my house. I
13 have to buy propane. If I could get it, I'd love to have it
14 if I am getting ripped off. I am getting---

15 ZELDA KENNEDY: We're sitting on top of it and
16 can't get it.

17 BEN KENNEDY: We're right there above it, but
18 we're not getting it. Yes, it's being stolen. My analogy
19 of the car is the same thing. You own what's in your car, I
20 own what's in my property, my land.

21 JIM KISER: Mr. Kennedy, let me explain something
22 to you in that regard. Under this process, if you want to
23 participate, that's one of your options, you can put up

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1 2.17% of the cost of this well and guess what, you'll get
2 100% of the proceeds from your gas. That's all you got to
3 do if you want 100% of it.

4 BEN KENNEDY: I don't want...I want to keep my
5 gas. I don't want any money.

6 BENNY WAMPLER: That's what the General Assembly
7 said you can't do.

8 BEN KENNEDY: I know that.

9 BENNY WAMPLER: I mean, that's beyond our control.
10 One thing I am concerned about is the fact that the lease
11 they offered you shows 4.2 acres. You've testified you own
12 4.2 acres. They're showing 2.4, something like that. That
13 needs to get resolved. I think we got a defective
14 application with that alone is my view.

15 JIM KISER: Well, I guess we...the deed says more
16 or less. The lease has a lesser interest clause in it. My
17 guess is they put 4.2 because that's what he was insisting
18 on.

19 BEN KENNEDY: That was in the lease when I got it.

20 BENNY WAMPLER: You all have time to---?

21 JIM KISER: I don't think...I mean absent some
22 sort of evidence that he can present that our survey is
23 wrong---.

24

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1 BENNY WAMPLER: You haven't presented anything
2 that says his is wrong.

3 JIM KISER: We've got a certified plat.

4 BENNY WAMPLER: But your own lease you offered him
5 says 4.2.

6 JIM KISER: It says more or less.

7 BENNY WAMPLER: Well, anyway, I'm going to
8 continue it. Is 30 days adequate for you to survey that and
9 resolve that issue?

10 DON HALL: If we're allowed to.

11 BENNY WAMPLER: He's saying if he's allowed to.
12 Will you allow them to survey that?

13 JACK STANLEY: Mr. Chairman, could I interject one
14 more thing?

15 BENNY WAMPLER: Yes.

16 JACK STANLEY: On your assessment of risk, if I
17 had \$300,000, I'd sink a well by myself and you know what,
18 I'd hit gas because there's gas wells all over our property,
19 all over our surrounding area right there. There's one down
20 on Caney Ridge which is about 12 miles from us that's been
21 producing gas for over 40 years. So there's no risk here
22 involved. It's just about a sure thing.

23 BEN KENNEDY: It is a sure thing.

24

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1 JACK STANLEY: I appreciate---.

2 BEN KENNEDY: I do, too.

3 JACK STANLEY: I do appreciate your time. Sorry

4 we got off track a few times, but you know this a big thing

5 to us.

6 BENNY WAMPLER: We understand.

7 JACK STANLEY: Big, big thing.

8 BENNY WAMPLER: It hits home when it's something

9 like this. We're going to continue it to next month, give

10 them a change to survey it and get the property lines run.

11 BEN KENNEDY: Thank you very much.

12 BENNY WAMPLER: We're going to take a ten minute

13 recess.

14 (Off record.)

15 BENNY WAMPLER: Okay, we need to come to order.

16 The next item on the agenda....Ma'am, we're going to

17 reconvene. The next item on the agenda is a petition from

18 Equitable Production Company for creation and pooling of

19 conventional gas unit V-536034. This is docket number VGOB-

20 04-0420-1285. We'd ask the parties that wish to address the

21 Board in this matter to come forward at this time.

22 JIM KISER: Mr. Chairman, Jim Kiser and Don Hall

23 again on behalf of Equitable Production Company.

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DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. HALL:

Q. Mr. Hall, I'll remind you that you're under oath. Are you familiar with our application seeking establishment of a unit, seeking the pooling of unleased interest for EPC well number V-536034, which was dated March the 19th, 2004?

A. Yes.

Q. Is Equitable seeking to force pool the drilling rights underlying the unit as depicted at Exhibit A of the application?

A. They are.

Q. Does Equitable own drilling rights in the unit involved here?

A. Yes. You want to mention the exhibits I passed out?

Q. Yes, I'm sorry. Don has passed out revised exhibits all the way down the line with the exception of the plat. We have a revised B, B-2 showing added and dismissed parties, and a B-3 showing folks subject...or unleased folks subject to the pooling, and a revised AFE. Did everybody

1 get all those?

2 (Yes responses.)

3 Q. Now, prior to filing the application, Mr.
4 Hall, were efforts made to contact each of the respondents
5 listed in Exhibit B and an attempt made to work a voluntary
6 lease agreement?

7 A. Yes.

8 Q. What is the interest of Equitable under
9 lease in the gas estate in the unit?

10 A. We have 69.0475% leased.

11 Q. Okay. And that's different than the 67.64%
12 at the time of the application. Can you explain that to the
13 Board?

14 A. At the time of the application, we had some
15 unknown owners that we located in the interim and leased
16 some of those people that we located as set out in Exhibit
17 B-2.

18 Q. All right. So you've got the added parties
19 that we located and then the ones that are dismissed are the
20 ones that we were able to lease?

21 A. Yes.

22 Q. And all other...all other unleased parties
23 set out at Exhibit B-3?

24

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1 A. Yes.

2 Q. Are you familiar with the ownership of
3 drilling rights of parties other than Equitable underlying
4 this unit?

5 A. Yes.

6 Q. And what percentage remains unleased?

7 A. 30.9525%.

8 Q. And we no longer have any unknown parties?

9 A. That's correct.

10 Q. In your professional opinion, was due
11 diligence exercised to locate each of the respondents named
12 herein?

13 A. Yes.

14 Q. Are the addresses set out in Exhibit B to
15 the application, the revised Exhibit B, the last known
16 addresses for the respondents?

17 A. Yes.

18 Q. Are you requesting the Board to force pool
19 all the unleased interest listed at Exhibit B-3?

20 A. We are.

21 Q. And are you familiar with the fair market
22 value of drilling rights here and in the surrounding area?

23 A. Yes.

24

1 Q. Could you advise the Board as to what those
2 are?

3 A. A five dollar bonus, a five year term, with
4 a one-eighth royalty.

5 Q. In your opinion, do the terms you've just
6 testified to represent the fair market value of and the fair
7 and reasonable compensation to be paid for drilling rights
8 within this unit?

9 A. Yes.

10 JIM KISER: Mr. Chairman, I'd ask at this time
11 that testimony regarding election options and time afforded
12 to make those previously taken earlier this morning be
13 incorporated for purposes of this hearing.

14 BENNY WAMPLER: They will be incorporated.

15 Q. Okay, Mr. Hall, in this particular case,
16 it's a conventional well and we don't have any unknown
17 owners of any conflicting claimants within the individual
18 tracts, so we do not need the Board to establish an escrow
19 account, is that correct?

20 A. That's correct.

21 Q. And who should be named the operator under
22 any force pooling order?

23 A. Equitable Production Company.
24

1 Q. And what's the total depth for this well?
2 A. It's 6,096 feet.
3 Q. And the estimated reserves for the unit?
4 A. 250,000,000 cubic feet.
5 Q. Has an AFE been reviewed, signed and
6 submitted to the Board this morning?
7 A. It has.
8 Q. And does this AFE represent a reasonable
9 estimate of the well cost under the plan of development?
10 A. Yes.
11 Q. And what are those costs?
12 A. The dry hole costs are \$215,154, and the
13 completed well cost is \$365,121.
14 Q. Do these costs anticipate a multiple
15 completion?
16 A. They do.
17 Q. Does your AFE include a reasonable charge
18 for supervision?
19 A. Yes.
20 Q. In your professional opinion, would the
21 granting of this application be in the best interest of
22 conservation, the prevention of waste and protection of
23 correlative rights?
24

1 A. Yes.

2 JIM KISER: Nothing further of this witness at
3 this time, Mr. Chairman.

4 BENNY WAMPLER: Questions from members of the
5 Board?

6 MASON BRENT: Just get me straight, if you will,
7 on...originally you had an Exhibit E, unleased owners
8 subject to escrow and you've got Kirshbaum leased. Is this
9 James L. Burns, is that the heir of Virginia L. Burns?

10 DON HALL: No, it's actually...they're the heirs
11 of M. M. Long. Jean Kirshbaum was M. M. Long, Jr.'s wife,
12 past.

13 MASON BRENT: Okay.

14 DON HALL: Those are the people that were listed
15 in the unlocated.

16 MASON BRENT: Right. Thank you.

17 BENNY WAMPLER: Other questions from members of
18 the Board?

19 JIM KISER: Mason, I can help you even further.
20 M. M. Long's spouse was Jean Kirshbaum. Virginia Burns died
21 and her children were James Burns and Ann Burns Noe.

22 MASON BRENT: Okay.

23 JIM KISER: We located...and then Helen Long, who
24

1 is also a heir of M. M. Long, Jr. She's deceased and her
2 children were...are Nancy Muse Winchester, James M. Muse,
3 Jr. and Susan Muse Alride.

4 MASON BRENT: That helps.

5 BENNY WAMPLER: Any other questions.

6 (No audible response)

7 BENNY WAMPLER: Do you have anything further?

8 JIM KISER: Mr. Chairman, we'd ask that the
9 application be approved as submitted with the revised
10 exhibits.

11 BENNY WAMPLER: Is there a motion?

12 JIM McINTYRE: Motion to approve.

13 BENNY WAMPLER: Is there a second?

14 MASON BRENT: Second.

15 BENNY WAMPLER: Motion and second. Any further
16 discussion?

17 (No audible response.)

18 BENNY WAMPLER: All in favor, signify by saying
19 yes.

20 (All members say yes.)

21 BENNY WAMPLER: Opposed, say no.

22 (No audible response.)

23 BENNY WAMPLER: You have approval. The next item
24

1 on the agenda is a petition from Columbia Natural Resources,
2 LLC for creation and pooling of conventional gas unit
3 825398, docket number VGOB-04-0420-1286. We'd ask the
4 parties that wish to address the Board in this matter to
5 come forward at this time.

6 JIM KISER: Mr. Chairman, Jim Kiser on behalf of
7 Columbia Natural Resources, LLC. Mr. Wilson and, I guess,
8 the Board received a letter from Thomas L. Pruitt, an
9 attorney in Grundy, regarding this particular hearing and I
10 didn't...of course, I don't know why he didn't send it to
11 me, but Mr. Wilson was kind enough to fax it to me last
12 Monday. At which time I started to attempt to reach Mr.
13 Pruitt. He's got some issues as to whether or not all
14 Anderson Elswick heirs were properly notified and whether or
15 not they own a 1/5th interest, whether or not there's a
16 lease. I mean, there may be...he may have some contentions
17 that are plausible here. Some of it I just don't think he
18 understands what's going on, but anyway I probably tried to
19 call him seven or eight times since I got this letter. He's
20 never returned my call. I thought that he would be here
21 today. He's obviously not here. Today, regardless of all
22 that, we are going to continue it with your approval until
23 the May docket and try to get hold of him and get this...get

24

--

1 any of his concerns straightened out so that we don't have
2 to do this more than once. So we're going to ask at this
3 time that this one be continued with the hope that in the
4 meantime we can... they'll call us back.

5 BENNY WAMPLER: All right. That will be continued
6 without objection. I believe that clears your items.

7 JIM KISER: Thank you.

8 BENNY WAMPLER: The Board received a copy of the
9 minutes from last meeting. I'll go ahead and take care of
10 some of these things. If there are any corrections or
11 additions to those, if not, I'd entertain a motion to
12 approve.

13 MASON BRENT: Mr. Chairman, I'd move that we
14 approve the minutes as distributed.

15 JIM McINTYRE: Second.

16 BENNY WAMPLER: Motion and second. Any further
17 discussion?

18 (No audible response.)

19 BENNY WAMPLER: All in favor, signify by saying
20 yes.

21 (All members say yes.)

22 BENNY WAMPLER: The minutes are approved. Lunch
23 should be here shortly. I think Bob is verifying that.

24

--

1 We'll go head and break and reconvene at 1:00. I told
2 everybody to be back here at 1:00.

3 (Off record.)

4 BENNY WAMPLER: Good afternoon. We're going to go
5 ahead an reconvene. The first item for the afternoon is a
6 petition from CNX Gas Company, LLC. Folks, sorry, you need
7 to be quiet. We've got a recording here and it will be very
8 difficult to pick up. A petition from CNX Gas Company, LLC
9 for pooling of coalbed methane unit 1-16, or is that I?

10 (Response I, speaker unidentified.)

11 BENNY WAMPLER: I-16, South Grundy District,
12 Buchanan County, docket number VGOB-04-0316-1272. We'd ask
13 the parties that wish to address the Board in this matter to
14 come forward at this time.

15 MARK SWARTZ: Mark Swartz and Les Arrington.

16 BENNY WAMPLER: The record will show there are no
17 others. You may proceed.

18 MARK SWARTZ: These were continued, I-16 and I-17,
19 were continued last month because Les was optimistic that he
20 could do a little more leasing. They were able to enter
21 into a couple of additional leases which we will deal with
22 on a supplemental, if we need to, but they were not able to
23 lease everybody so we actually need to proceed today to

24

--

1 pool.

2 Les needs to be sworn before we start.

3 (Witness is duly sworn.)

4

5 LESLIE K. ARRINGTON

6 having been duly sworn, was examined and testified as

7 follows:

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. SWARTZ:

10 Q. Les, you need to state your name for us.

11 A. Leslie K. Arrington.

12 Q. Who do you work for?

13 A. CNX Gas Company, LLC .

14 Q. And what do you do for them?

15 A. Manager of environmental and permitting.

16 Q. The notices and the applications that apply

17 to I-16 and I-17, did you either prepare those or were they

18 prepared under your direction?

19 A. Yes.

20 BENNY WAMPLER: Let me go ahead and call I-17.

21 MARK SWARTZ: Okay. I'm sorry, I thought you had.

22 BENNY WAMPLER: We'll also call docket number

23 VGOB-04-0316-1273. All the parties that wish to address the

24

--

1 Board in this matter, come forward at this time.

2 MARK SWARTZ: It will also be Les Arrington and
3 Mark Swartz on that one.

4 BENNY WAMPLER: The record will show there are no
5 others. You may proceed.

6 Q. Les, did you actually sign the notices of
7 hearing and the applications with regard to these two
8 pooling applications?

9 A. Yes, I did.

10 Q. And each of these units are Oakwood II
11 units, or to be pooled under the Oakwood II order?

12 A. Yes, they are.

13 Q. And they are over a coal mine?

14 A. Yes, they are.

15 Q. Which mine?

16 A. VP-1.

17 Q. And are both of these 80 acre units?

18 A. Yes, they are.

19 Q. And the plan here would be to produce gob
20 gas from sealed portions of the mine, correct?

21 A. Yes.

22 Q. Is CNX Gas Company the applicant in both
23 instances?

24

1 A. Yes.

2 Q. And do each of these pooling applications
3 request that if the Board grants the applications, that CNX
4 be appointed as the Board's operator?

5 A. Yes, they would.

6 Q. Okay. CNX Gas Company is a Virginia
7 general partnership?

8 A. Yes.

9 Q. And is it a wholly owned indirect
10 subsidiary of Consol Energy, Inc.?

11 A. Yes, it is.

12 Q. Is CNX Gas Company authorized to do
13 business in Virginia?

14 A. Yes, it is.

15 Q. Is it registered with the Department of
16 Mines, Minerals and Energy, and does it have a blanket bond
17 on file?

18 A. Yes.

19 Q. Have you named all of the people that are
20 respondents in both the notice of hearing and Exhibit B-3 to
21 the both of the applications?

22 A. Yes, they are.

23 Q. And what did you do to notify these folks
24

--

1 that you were going to have a hearing last month, and what
2 happened to notify them that there would be a further
3 hearing this month?

4 A. We mailed by certified mail, return receipt
5 on February 13th, 2004, and they were both published in the
6 Bluefield Daily Telegraph, I-16 on 2/21, 2004, and I-17 on
7 2/23/04.

8 Q. And the proofs of publication and proofs of
9 mailing were filed last month, correct?

10 A. Yes.

11 Q. And you haven't made...there are no revised
12 exhibits that we need to deal with today?

13 A. No. However, I would like to dismiss two
14 parties and follow up with new exhibits.

15 Q. Okay.

16 A. We were just notified yesterday evening and
17 didn't have time to prepare the exhibits.

18 Q. And who are the two parties, and is the
19 reason for dismissal that you actually were able to obtain
20 leases?

21 A. That's correct.

22 Q. And who would that be?

23 A. Janet Matney.

24

--

1 Q. Janet Stallard Matney?
2 A. Uh-huh.
3 Q. Okay.
4 A. And Anna L. Matney.
5 Q. There's an Ann L. Matney in both
6 applications.
7 A. Yes.
8 Q. Is that the Ann?
9 A. The Ann L.
10 Q. Okay. And the reason for that dismissal...
11 for those dismissals would be that they are leased parties
12 now?
13 A. That's correct.
14 Q. Do you wish to add anybody today? Do you
15 wish to dismiss anybody else?
16 A. No.
17 Q. The folks that you've been able to lease,
18 what lease terms have you offered them?
19 A. For a coalbed methane lease, it's a dollar
20 per acre per year with a five year paid up term and a one-
21 eighth production royalty.
22 Q. And would you recommend those same terms to
23 the Board to be inserted into any order it might enter with
24

--

1 regard to folks or parties that would be deemed to have been
2 leased?

3 A. Yes, we would.

4 Q. As I indicated before, these are two 80
5 acre units and we are talking about units that would produce
6 coalbed methane from the Tiller on down?

7 A. Correct.

8 Q. The target seam here in terms of the
9 mining, what seam is that occurring in?

10 A. Pocahontas III seam.

11 Q. With regard to the standing as applicant,
12 let's turn to Exhibit A, page two, or your sheet there, and
13 would you tell the Board what interest you have been able to
14 acquire and what interest you are seeking to pool. Let's
15 start with I-16.

16 A. As it's shown, we have 100% of the coal
17 leased beneath these units and the Exhibit A-2 that's in the
18 exhibits does not include the leases that we have taken.

19 Q. So the percentage is going to go down when
20 we file?

21 A. It will. And the percentage number for the
22 leased coalbed methane for I-16 is 78.15358%, and we're
23 seeking to pool 21.84642%, and we will get new exhibits
24

--

1 submitted. We'll try to get them sent out tomorrow.

2 Q. To reflect those increases in leased or
3 controlled interests decreases and what you need to pool?

4 A. Correct. I-17, we have 88.06072% of the
5 coalbed methane leased from the coal, oil and gas owner.
6 We're seeking to pool 11.93928% of the coal, oil and gas
7 coalbed methane interests.

8 Q. From my review of exhibits, there are no
9 exhibit E and there are no exhibits EE, so that indicates to
10 me that there are no...I take that back, in...there are no
11 split agreements in either of these units, correct?

12 A. Correct.

13 Q. But with regard to I-16, there is an
14 ex...indeed an escrow requirement?

15 A. That's correct for tracts 5, 6, 7 and 9.

16 Q. And that's for a reason for conflicts?

17 A. Yes.

18 Q. And also with regard to I-17, again, no
19 split agreements but there is an escrow requirement and
20 you've got an Exhibit E attached that addresses that issue,
21 and what tracts need to be escrowed?

22 A. 3-B and 9.

23 Q. And again, is that because of conflicts as
24

--

1 opposed to unlocateables and so forth?

2 A. Yes.

3 Q. With regard to I-16, what is your estimated
4 cost?

5 A. The estimated allocatable cost is
6 \$19,501.25.

7 Q. And this is a little different because it's
8 an Oakwood II unit, so we're really allocating panel costs?

9 A. That's correct.

10 Q. Okay. And if you wanted to follow that
11 calculation, there's an Exhibit G, page one, correct?

12 A. Yes.

13 Q. And essentially what you've done is you
14 totaled the cost for the various panels and then you've
15 allocated those by a percentage to the various units,
16 Oakwood units, that are over those panels?

17 A. That's correct, we have.

18 Q. And the 19,509.25 is reported with regard
19 to I-16 and that involves how many panels, one or two?

20 A. Just the three north longwall panels at VP-
21 1.

22 Q. So I-16, that's the allocation for---?

23 A. I-16, yes.

24

1 Q. Okay. And the percentage, the 9.6922% is
2 also used to allocate royalty---

3 A. From the longwall panel.

4 Q. ---from the longwall panel? So if you look
5 at Exhibit B-3, it's a little different than the typical
6 frac unit. You've got your acres in unit. You've got a
7 percent of unit number which does in fact report that
8 acreage divided by 80 acres?

9 A. That's correct.

10 Q. But then we've got a further interest in
11 panel one north, interest in panel three north, and it
12 actually takes the percentages which is the unit under
13 consideration divided by the total acreage in the panel
14 times the royalty interest, and that's how you get those
15 royalty interests that are reported in the last column and
16 the second to last column?

17 A. It is. That's correct.

18 Q. Now, it seems to me that there are two
19 panels on Exhibit B-3?

20 A. Yeah, I just noticed that. As we go
21 through the panels, we do all the allocations and we forgot
22 and left that one on there. The one north is not involved
23 in this pooling at this time.

24

--

1 Q. Okay. So that one north column ought to
2 disappear because it's not involved?

3 A. That's correct.

4 Q. And the G, page one, panel three north is
5 the correct one?

6 A. Correct.

7 Q. With regard to unit I-17, we have the same
8 situation where we are allocating multiple panels?

9 A. Yes, the three and four north panel.

10 Q. And in this case, there actually are two
11 panels, this case being I-17, two panels affecting unit I-
12 17. You reported the particular percentages for each of
13 those?

14 A. Yes, we have.

15 Q. And if you turn to Exhibit G, page one,
16 with regard to this unit, what are the costs that have been
17 allocated to I-17?

18 A. I-17, the total cost allocated to that unit
19 is \$33,478.78.

20 Q. Is it your opinion that the plan of
21 development for these two units, which is to produce sealed
22 gob gas, coalbed methane gas from the VP-1 mine, is a
23 reasonable plan to develop this coalbed methane resource
24

1 within and under these two units?

2 A. Yes, it is.

3 Q. And is it your opinion that this plan of
4 production with regard to these two units of sealed gob gas
5 from the VP-1 mine, if you take the leases that you've been
6 able to obtain and put them in conjunction with the pooling
7 that we saw here, would those two things protect the
8 correlative rights of all the owners and claimants to this
9 coalbed methane?

10 A. Yes, it will.

11 Q. And we've already covered the fact that
12 there is escrow required for the reasons we've stated,
13 correct?

14 A. Yes.

15 MARK SWARTZ: That's all I have, Mr. Chairman.

16 BENNY WAMPLER: Questions from members of the
17 Board?

18 (No audible response.)

19 BENNY WAMPLER: Les, before you put that away,
20 would you check your Exhibit C?

21 A. Which unit?

22 BENNY WAMPLER: Both. At the top, have you got
23 what you're saying?

24

--

1 A. Well, actually this well probably also
2 showed up in that unit, but we'll correct those.

3 BENNY WAMPLER: You've got the same problem in the
4 other one.

5 A. I just have to look back to make sure.

6 BENNY WAMPLER: Are the costs that you testified
7 to as far as panel distribution, are...is that accurately
8 reflected in both...in other words, from your G...Exhibit G,
9 page one?

10 A. Yes. Yes, it is.

11 BENNY WAMPLER: All right.

12 A. Wait a minute. I do know what this is.
13 The well is actually located in unit H-16. That is actually
14 the well... I wasn't thinking there. That is actually the
15 well that's allocated to this unit.

16 BENNY WAMPLER: Okay.

17 A. There will be no well in I-16 or I-17.
18 These are just simply allocated costs. Sorry.

19 MASON BRENT: Are there any other units thus far
20 allocated to this well?

21 A. H-16, yeah, they're all listed right here
22 on Exhibit G.

23 BENNY WAMPLER: G, page one.

24

--

1 MASON BRENT: So it's really six units being
2 allocated?
3 A. Allocated...basically.
4 BENNY WAMPLER: When I look at---?
5 A. I understand what happened here.
6 BENNY WAMPLER: Same thing in I-17, plus we got
7 two of them.
8 A. That's correct.
9 BENNY WAMPLER: Questions from members of the
10 Board?
11 (No audible response.)
12 BENNY WAMPLER: Do you have anything further, Mr.
13 Swartz?
14 MARK SWARTZ: No.
15 BENNY WAMPLER: Is there a motion?
16 JIM McINTYRE: Motion to approve.
17 BENNY WAMPLER: Is there a second?
18 DENNIS GARBIS: Second.
19 BENNY WAMPLER: Motion and second. Any further
20 discussion?
21 (No audible response.)
22 BENNY WAMPLER: All in favor, signify by saying
23 yes.
24

1 (All members say yes.)

2 BENNY WAMPLER: Opposed, say no.

3 (No audible response.)

4 BENNY WAMPLER: You have approval.

5 MARK SWARTZ: Before you call the next one, Mr.

6 Chairman, I think the next four, there's only one respondent

7 in each of them and it's Jewell Ridge, and it might make

8 sense to call these together if that would be acceptable.

9 BENNY WAMPLER: The next items are petitions from

10 CNX Gas Company, LLC for pooling of coalbed methane unit M-

11 56, docket number VGOB-04-0420-1274; and unit M-57, docket

12 number VGOB-04-0420-1275; and unit M-58, docket number VGOB-

13 04-0420-1276; and unit N-56, docket number VGOB-04-0420-

14 1277. We'd ask the parties that wish to address the Board

15 in these matters to come forward at this time.

16 MARK SWARTZ: Mark Swartz and Les Arrington again.

17 BENNY WAMPLER: The record will show there are no

18 others. You may proceed.

19 MARK SWARTZ: I'd like to incorporate the

20 testimony with regard to CNX as operator and its ability to

21 do business in the State and the lease terms from the prior

22 hearing.

23 BENNY WAMPLER: That will be incorporated.

24

1

2

LESLIE K. ARRINGTON

3

DIRECT EXAMINATION

4 QUESTIONS BY MR. SWARTZ:

5

Q. Les, you need to state your name again.

6

A. Leslie K. Arrington.

7

Q. And I'll remind you, you're still under

8

oath.

9

A. Yes, sir.

10

Q. Are each of these units Oakwood I units?

11

A. Yes, they are.

12

Q. And each of them will be an 80 acre unit?

13

A. Yes.

14

Q. And is it also true that there is one frac

15

well proposed in each of these four units?

16

A. It is.

17

Q. And is it true that each of these four frac

18

wells is actually located within the drilling window?

19

A. Yes.

20

Q. So that we're not going to be back for

21

location exceptions?

22

A. Correct.

23

Q. What did you do to notify Jewell Ridge that

24

--

1 there was going to be a hearing today?

2 A. Yes, we mailed by certified mail, return
3 receipt requested on March 19th of 2004.

4 Q. And in each instance, was that mail signed
5 for and have you filed that with the Board?

6 A. Yes, we have.

7 Q. Okay. So you know that Jewell Ridge had
8 actual---?

9 A. That's correct.

10 Q. The...I take it you don't want to dismiss
11 anybody today?

12 A. No.

13 Q. Do you want to add?

14 A. No.

15 Q. Let's look at...take them one at a time.
16 Let's start with M-56. First, I would like to look at the
17 question of what it is you've obtained and causes you to
18 have standing, and what it is you're seeking to pool?

19 A. Yes, in M-56, we have 97.8135% of the coal,
20 oil and gas owners claim to coalbed methane leased, and
21 we're seeking to pool 2.1865% of the coal, oil and gas
22 owners claim to coalbed methane.

23 Q. And in this unit, and I think in all four
24

1 of these units, there is no escrow requirement, correct?

2 A. Correct.

3 Q. And there is no split agreements?

4 A. Correct.

5 Q. With regard to...again, with regard to M-

6 56, what is the estimated cost?

7 A. \$207,530.86. Depth is 1890 feet, permit

8 number is 5902.

9 Q. And I take it the well has been drilled?

10 A. It has.

11 Q. And I noticed something different here on

12 your Exhibit C. It's new to me.

13 A. Yes.

14 Q. It looks like you've actually put in bold

15 the numbers that are actual numbers---.

16 A. We did.

17 Q. ---pertaining to this drilled well. And

18 the numbers that are not in bold are your estimates with

19 regard to costs that haven't yet been incurred. They've

20 been incurred, they're in the process of being recorded?

21 A. That's correct. That stems from a question

22 last month, did we ever come forth with some of our actuals.

23 So the bold costs on there ought to be actual costs.

24

1 Q. And are you going to be trying to do that
2 from now on?

3 A. Costs that we have incurred, yes.

4 Q. Let's turn to M-57, what is it...what's the
5 interest you've acquired in M-57, and what are you seeking
6 to pool?

7 A. 96.2798% of the coal, oil and gas owners
8 claim to coalbed methane. We're seeking to pool 4.7202% of
9 the coal, oil and gas owners claim to coalbed methane.

10 Q. And this is a well that's been drilled as
11 well?

12 A. Yes, they have.

13 Q. And do you have a cost estimate that
14 includes, again, some actual cost and some estimated cost?

15 A. Yes. Cost was \$241,946.38, depth was 1917
16 feet, permit number is 5904.

17 Q. With regard to M-58, what is the interest
18 you've been able to acquire by lease or purchase and what is
19 it you're seeking to pool?

20 A. We've leased or own 99.0837% of the coal,
21 oil and gas owners claim to coalbed methane. We're seeking
22 to pool 0.9163% of the coal, oil and gas owners claim to
23 coalbed methane.

24

1 Q. And what's your well cost estimate?

2 A. \$257,044.22, to a depth of 1933 feet.

3 Q. Is the permit number 5895?

4 A. Yes, it is.

5 Q. With regard to N-56, what have you acquired

6 and what are you seeking to pool?

7 A. We've acquired 99.9981% of the coal, oil

8 and gas owners claim to coalbed methane. We're seeking to

9 pool 0.0019% of the coal, oil and gas owners claim to

10 coalbed methane. The well cost on this was \$205,521.71,

11 drilled to a depth of 1859 feet, permit number is 5903.

12 Q. With regard to these four wells, is it your

13 opinion that the plan of development, which is to drill a

14 frac well within the drilling window of each of these units,

15 is a reasonable plan to develop the coalbed methane within

16 and under each of these units?

17 A. Yes, it is.

18 Q. Is it your opinion that if you couple the

19 leases which you've obtained and put those together with a

20 pooling order, that the correlative rights of all of the

21 owners and claimants within all four units will be

22 protected?

23 A. Yes, they will.

24

1 MARK SWARTZ: That's all I have, Mr. Chairman.

2 BENNY WAMPLER: Questions from members of the

3 Board?

4 (No audible response.)

5 BENNY WAMPLER: Do you have anything further?

6 MARK SWARTZ: No.

7 BENNY WAMPLER: Is there a motion?

8 JIM McINTYRE: Motion to approve.

9 BENNY WAMPLER: Is there a second?

10 DENNIS GARBIS: Second.

11 BENNY WAMPLER: Second. Any further discussion?

12 (No audible response.)

13 BENNY WAMPLER: All in favor, signify by saying

14 yes.

15 (All members say yes.)

16 BENNY WAMPLER: Opposed, say no.

17 (No audible response.)

18 BENNY WAMPLER: You have approval. The next item

19 on the agenda is a petition from CNX Gas Company, LLC for

20 creation of CNX long hole unit two for the production of

21 coalbed methane gas, docket number VGOB-04-0420-1278. We'd

22 ask the parties that wish to address the Board in this

23 matter to come forward at this time.

24

1 MARK SWARTZ: Mark Swartz and Les Arrington again.

2 It would be helpful if we gave you a map here to begin
3 with. It's a little different than what you're used to
4 seeing.

5 BENNY WAMPLER: The record will show there are no
6 others. You may proceed.

7 MARK SWARTZ: Les has passed out a map that we've
8 marked as Exhibit J, and there's an Exhibit A-2, which kind
9 of track with that in your application, and the advantage, I
10 guess, or the addition in the map that's in the application
11 is it actually has the boundaries of the unit that we're
12 seeking to create, which were not...were not drawn on J and
13 what Les has tried to do here is actually follow the Oakwood
14 Unit boundaries so that we're essentially seeking to create
15 a unit that takes 16 Oakwood units and combines them into a
16 drilling unit, just for purpose of ease of reference and
17 ease of description. I think that will make some sense
18 here. Before we get into the specific testimony with regard
19 to this, with those long wall units that we're seeking to
20 create, I will tell you that the reason we haven't noticed a
21 ton of people is because frankly this land is owned by a
22 limited number of people and these are all voluntary units.
23 We don't need to pool any of these units. There are no

24

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1 pooling orders in place and we're not going to be seeking
2 any. It's a situation where we actually have fully leased
3 this 12...roughly 1200 acres, I think...1280 maybe. Let's
4 see, 1280. So they're voluntary units.

5

6 LESLIE K. ARRINGTON

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. SWARTZ:

9 Q. The dash mark lines, Les, why don't you
10 tell them what you've got in mind here in terms of the
11 development.

12 A. Yes. Back in March of last year, no,
13 September of last year, I'm sorry. September of last year,
14 we came in before the Board for what is shown on this map as
15 hole number one and two, long wall proposal. We drilled
16 those two holes and our results were quite favorable. So
17 we're back in here with an additional proposal to continue
18 drilling out along the three east mains and to drill several
19 more holes. There are 15 holes shown on here; however,
20 we're only going to develop...probably have six or seven of
21 those holes developed at any one time. As one starts
22 falling off, we'll probably drill the next one from that
23 point. But I felt that so they could continue their

24

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1 operation, I'd go ahead and do all the way out as far as
2 I've shown now. Basically what this is, is drilling from
3 the underground, drilling underground in the mine, drilling
4 out as far as we can drill out horizontally in the
5 Pocahontas number three seam and collecting the gas.

6 Q. Then the plumbing is installed to be able
7 to get that up to a well bore?

8 A. Yes, it is.

9 Q. Where is the well bore that you're using?

10 A. It's actually shown on the map as VS-8.

11 Q. Where is that?

12 A. It's over on the left hand side on the map
13 that I passed out.

14 Q. On the bigger map?

15 A. Yes.

16 Q. Okay.

17 A. It's a green dot.

18 Q. The...this unit that you're creating would
19 be a unit to produce from what coal seam?

20 A. Only the Pocahontas number three seam at
21 this time. Should we come up and have additional proposals,
22 of course, we would come back. There may be additional
23 proposals in the future here.

24

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1 Q. But the drilling unit that you're seeking
2 to...seeking to create is depicted in the application
3 as...or on Exhibit A and also on Exhibit A-2 and it includes
4 16, 80 acre Oakwood units, correct?

5 A. Yes, it does.

6 Q. And how are you going to allocate between
7 the lessors?

8 A. Yes. Quite simply the way we're going to
9 do it is because the 80 acre unit that's involved, it's
10 simply going to be the length of the horizontal hole within
11 that 80 acre unit divided by the entire length. It's pretty
12 simple.

13 Q. Very similar to the longwall allocation?

14 A. Yes.

15 MARK SWARTZ: I really don't think I have anything
16 else.

17 BENNY WAMPLER: Give everybody time to understand
18 that.

19 MARK SWARTZ: No problem.

20 BENNY WAMPLER: Questions from members of the
21 Board?

22 MASON BRENT: If you add it all up, how many
23 leased parties are there in these 16 units? Do you know
24

--

1 roughly?

2 A. I'd just have to look. (Witness reviews
3 file.) Roughly eight to ten, eight I believe.

4 MARK SWARTZ: Except within...for example, within
5 the Franks Estate, there's a whole bunch of people. But Mr.
6 Franks here represents all of them and has their power of
7 attorney. The summary and the notice, I think for example,
8 on...I think there's nine listed here in this summary, but
9 the Franks estate has a number of people I know for sure
10 from prior experience with them and I don't know how these
11 trusts break out either.

12 A. Actually it's one lease.

13 BENNY WAMPLER: How would you pay out...explain
14 your color coding.

15 A. You know, I don't know why we made those
16 different colors. They just were and I should have changed
17 them to all one color.

18 BENNY WAMPLER: All right. If you pay on the
19 length of the hole---.

20 A. Yes.

21 BENNY WAMPLER: ---in the 35 quadrant, you stop
22 at N with one of the holes and go into M with another.

23 A. I...yes.

24

--

1 BENNY WAMPLER: Is that treated as two or one?

2 A. They'll be treated as two different holes,
3 and if you'll go back over...go back over to hole number one
4 and hole number two, you'll see that, granted the VP-2 mine
5 works are there and we can only drill out 2300 feet, while
6 we did experience drilling problems, so some of the holes
7 may be 2,000 feet, some of them may be 5,000 feet. We're
8 going to have those type situations and they'll be treated
9 all as an individual hole.

10 BOB WILSON: Mr. Chairman.

11 BENNY WAMPLER: Mr. Wilson, please.

12 BOB WILSON: We did an earlier long hole unit as a
13 provisional. That's the one you were referring to in
14 September?

15 A. It was.

16 BOB WILSON: Was this same payment method you used
17 on that?

18 A. Yes, it was.

19 BOB WILSON: I don't believe we even have an order
20 on that. Did we ever get an order on that?

21 A. I'd have to ask Anita. No, we haven't.

22 BOB WILSON: Purely for reference, the horizontal
23 units that have been approved that commence at the surface
24

1 with the units that we have done here for other operators
2 that have commenced at the surface, the overall outline was
3 treated as a unit such that regardless of where the holes
4 went, I believe everybody was paid as if that hole was on
5 them. And just for purpose of thought, I'm wondering if
6 there is a reason why that wouldn't apply if you create a
7 unit here, a single unit out of all these existing 80 acre
8 units on the grid, if there's a reason that any gas produced
9 from that unit should be shared proportionately to all
10 owners within that unit, that single unit. That's basically
11 the way we structured the other horizontal operations that
12 we have done. Granted, we're plowing new ground with a lot
13 of this anyway as far as the Board is concerned and as far
14 as Virginia is concerned. But again, for sake of
15 consistency, it's something you may...maybe should be
16 considered. Those units also had some restrictions relative
17 to the...how close to the side you could drill it. It may
18 not apply here because this is over a mining plan. That
19 makes a significant difference here as well. Again, just
20 for thought, so far as the correlative issues that are
21 concerned.

22 MARK SWARTZ: I would have one observance, sort of
23 a legal concern and Les can talk to you about the drainage
24

1 issues, but I believe that our leases allow us to allocate
2 on any reasonable basis. I appreciate...I guess we're
3 telling you how we are planning to allocate, but because we
4 have leases that allow us to do this, we don't really need
5 to enter an order saying this is how you're going to
6 allocate this unit. All we need is a unit created because
7 these are all voluntary units that we have. We have an
8 ability to combine leased acreage into a drilling unit that
9 we would create. Then once that happens, then we're under
10 our leases and we're off and running with these people. So
11 in terms of whether or not you're going to be creating some
12 precedent here or need to even take that stuff, you know, we
13 feel comfortable under our leases that once we create the
14 drilling unit, we're fine in terms of allocation. Okay.

15 But the problem conceptionally, though, I would
16 have, you know, if you don't...I look at these almost as if
17 each one is an individual well from an allocation
18 standpoint, and you know, if the wells at the far end aren't
19 drilled, you know, if 14 and 15 don't get drilled, then they
20 have benefitted from one, two and three, I have a fairness
21 problem with that. And I think it's safer, and I really...
22 conceptionally, I don't think we've done any from the
23 surface and we talked about it but we've never done it, so
24

1 I'm not really...I've never really thought about that in
2 terms of how I would want to see that. But conceptionally,
3 I'm a little troubled by not treating these holes as if each
4 one is a well.

5 BOB WILSON: The answer to that could be that you
6 don't create as large a unit, you create multiple units if
7 you're going to treat each of these as an individual well.
8 Just under that concept again, I see exactly what he's
9 getting at. Again---.

10 MARK SWARTZ: But in terms of allocation and
11 production, I have...you know, you'll notice that there are
12 already producing wells, a ton of them in these units, so
13 it's not like, you know, the methane in these units hasn't
14 been produced on some basis for the benefit of the owners of
15 each of the 80 acre units. I mean, I think it looks to me
16 like every one of them has got at least one well already.
17 So essentially this is an enhancement in our increased
18 density, or whatever you want to call it, driven by a mine
19 plan. But I am...conceptionally, I'm more comfortable
20 looking at it that way, especially when you encounter
21 drilling issues. And also, I mean there are mining
22 conditions. I mean, you know, if they're making great
23 progress, we may not have an opportunity to drill all these.

24

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1 I mean, I don't know how this is going to work. I
2 just...conceptionally, I am not troubled by that, and I
3 don't really know what you did in other cases. I'm not sure
4 that I was even here when that happened.

5 BENNY WAMPLER: Well, we don't have an allocation
6 issue before us.

7 MARK SWARTZ: Not today, but I mean in terms of
8 we're talking about it.

9 BENNY WAMPLER: A legitimate...I mean it's a
10 legitimate discussion.

11 MARK SWARTZ: Right. We've done these holes in
12 the past a long time ago, ten or twelve years ago, and I
13 remember it was a footage allocation, but it was basically
14 through the units coming back to where you are. You know,
15 if you had a 6,000 foot hole, you just took the units.
16 We've got a program off this east main and Les is trying to
17 make one trip, basically.

18 BENNY WAMPLER: Les, you talked about hole number
19 one and hole number two. As we were talking, just for the
20 record, clean up the record, those two are not in this
21 proposed unit?

22 A. No, they were in the first proposal that we
23 ...first proposal that we brought in.

24

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1 BENNY WAMPLER: I just wanted to clarify for the
2 record here today.

3 A. Yes.

4 MARK SWARTZ: You can see them off to the left.

5 BENNY WAMPLER: I do. I do. I'm just making sure
6 for the record that the record reflects that we're not
7 talking about those today.

8 MARK SWARTZ: Yeah.

9 BENNY WAMPLER: He was just using those for
10 illustration purposes. Questions from members of the Board?

11 MASON BRENT: I have one question, if I may.

12 BENNY WAMPLER: Mr. Brent.

13 MASON BRENT: Given the experience you had with
14 hole one and hole two, and you mentioned some drilling
15 problems that you encountered, one of them is 4700 feet and
16 one of them is 2300 feet, now when we go to hole five and on
17 up through 15, how did you come to these distances?

18 A. Well, they're thinking maybe 5,000 foot may
19 be our maximum. Then some of them you'll see, look at hole
20 number 15, it's 4,150 feet. Look at just north at the end
21 of that red line and you see M-35. We're trying to stay
22 away from that frac well, and if you'll notice, that's kind
23 of the pattern that comes across there with the well...the
24

1 hole spacing. That's kind of what our spacing has been
2 designed on.

3 BENNY WAMPLER: If those were longwall panels
4 headed toward those units, how would you...this is another
5 pay discussion, but just to play something out, how would
6 you pay 34, for example, M-34 specifically.

7 A. M-34?

8 BENNY WAMPLER: Uh-huh.

9 A. Well, at this time...you can actually see
10 our projections on the exhibit, but this set of projections
11 is so far in the future this is plus...at least plus ten
12 years and it may be further than that in the future. If we
13 were to drill it in this fashion for the actual longwall
14 panels, I guess we'd have to come back and include that in
15 the Oakwood II, I'll call it, pooling. Right now we have
16 none planned in the immediate mining areas.

17 JIM McINTYRE: Just for my own information, why
18 are holes three and four on angles when the remainder of
19 them are straight lines?

20 A. Again, they try to miss some...that
21 existing frac well there.

22 JIM McINTYRE: 32?

23 A. O-32, yes.

24

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1 MARK SWARTZ: Well, I think logistically under the
2 mine, they try to take advantage of the wider area to drill
3 those two holes, too, and kind of stay out of the way in
4 terms of using that.

5 A. Uh-huh.

6 BENNY WAMPLER: Mr. Wilson just asked you if you
7 have any concern about establishing the drilling unit as
8 proposed with this application. Other questions from
9 members of the Board?

10 (No audible response.)

11 BENNY WAMPLER: Do you have anything further?

12 MARK SWARTZ: No.

13 BENNY WAMPLER: Is there a motion?

14 JIM McINTYRE: So moved.

15 BENNY WAMPLER: Is that for approval of the
16 drilling unit?

17 JIM McINTYRE: Yes.

18 BENNY WAMPLER: Do we have a second?

19 DENNIS GARBIS: Second.

20 BENNY WAMPLER: Second. Any further discussion?

21 (No audible response.)

22 BENNY WAMPLER: All in favor, signify by saying
23 yes.
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1 (All members say yes.)

2 BENNY WAMPLER: Opposed, say no.

3 (No audible response.)

4 BENNY WAMPLER: You have approval. The next item

5 on the agenda is a petition from prevailing plaintiffs for

6 disbursement of funds escrowed on their behalf for Unit U

7 16, docket number 93-0622-0381-01. We'd ask the parties

8 that wish to address the Board in this matter to come

9 forward at this time. Now, having said that, I realize that

10 nineteen through thirty-one are all disbursement case and we

11 can decide how to go forward with these with the Board and

12 with discussion of attorneys here about what makes that the

13 easiest.

14 PETER GLUBIACK: I guess I should...I should go on

15 the record here, Mr. Wampler.

16 BENNY WAMPLER: Yes, sir.

17 PETER GLUBIACK: Peter Glubiack, representing the

18 ...I guess for purposes of argument, the Ratliff plaintiffs

19 in the Ratliff Harrison-Wyatt case items...docket number

20 items nineteen through---.

21 BENNY WAMPLER: Thirty-one.

22 PETER GLUBIACK: ---thirty-one. I guess...I

23 certainly am at your pleasure. I was given escrow...given

24

1 escrow accounting balance sheet, what have you, by Mr.
2 Arrington earlier this morning. I guess by way of
3 background, they're all...all of the cases are relatively
4 similar. Obviously, we have units U-16, U-17, U-18, V-16,
5 V-17, V-18, V-20, W-17, W-18, W-19, and then two combined
6 units which VP8SGU1 and GU2. The...the process, which I
7 must confess we have developed with Mr. Wilson's assistance,
8 is obviously somewhat new. The cover letter, which you
9 should have in your file and which was sent with the
10 transmittal of all the documents to Mr. Wilson on April the
11 1st, indicated that we submitted separate applications,
12 separate notices of hearing, separate affidavits and
13 separate exhibits for all of the various units. However,
14 with the exception of the percentage ownership of the escrow
15 pertaining to each unit, the issues are virtually identical.
16 The only piece of information that I did not have and could
17 not do anything with and, in fact, the application seeks an
18 order. I think Mr. Arrington has answered, and there's
19 certainly...there's a couple of loose ends. There are a
20 couple of units that we did not submit in time. There are a
21 couple of...potentially a couple of wells or actually
22 interest in the units that were not accounted for, but I
23 think for purposes of today's discussion, I don't know what
24

1 else to say except that the documents that we think cover
2 our obligations were submitted in response, and presumably
3 in response, to an Order for this Board, CNX would have had
4 to produce what we've got in front of us.

5 BENNY WAMPLER: All right. Let's do one...let's
6 start out taking agenda item nineteen that I just called, go
7 through that and then if we see efficiencies, we'll...we'll
8 look for those as far as the others go. I don't know
9 that...at this time, I can't tell that it makes sense to try
10 to combine any of them. But it may. We'll see. So, I'll
11 just ask you to go forward with your petition.

12 PETER GLUBIACK: I'm not sure I have them...I have
13 to turn to the...nineteen is U-16.

14 BENNY WAMPLER: That's correct.

15 PETER GLUBIACK: Which is...according to my
16 information, VGOB number 93-6...0622-0381 (01). The parties
17 involved, according to our records, in U-16 at this point
18 are Bill and Geneva Ratliff. We have submitted an
19 application for determination of their interest. There was
20 attached as part of the record what should have been the
21 allocation from a force pooling unit order which indicated
22 their interest. I would point out that the interest on the
23 escrow sheet which I was given today and I obviously don't
24

1 have any way of knowing where that cow came from. How it
2 was compiled is somewhat different. However, it lists Bill
3 and Geneva Ratliff as owning a 22%...22.5527% interest in
4 the escrow; therefore, their allocated portion would be
5 \$19,039.93. The application was submitted, notice was
6 provided to...in this case, to the two interested parties
7 who were CNX Energy and Harrison-Wyatt, LLC, the owner of
8 the disputed claim, the coal owner. I think at this point
9 for the record, let me point out that it is my opinion, and
10 we've discussed this with the staff, in this matter what
11 we're asking the Court...or the Court, this Board, is an
12 order allocating the interest of my interested parties. I
13 think that notice provision should go to those interested
14 parties who are concerned with or may have any...may have
15 had any claim to the monies. Any other parties, for
16 instance as an example, each one of these force pooling unit
17 orders has sometimes pages of interested parties and various
18 matters. We're not seeking to determine their interest.
19 We're not seeking to determine their allocation. We're
20 simply seeking the monies, which we're asking for a
21 determination. At least on the table right now, we've
22 received an escrow accounting. We're asking the Board to
23 ask CNX to determine my client's interest in that particular

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1 unit and that's what apparently has been done. So, it's our
2 opinion that the application, the notice, the affidavit and
3 supporting exhibits have been on file...or are filed.

4 BENNY WAMPLER: Okay, on the...Mr. Swartz, I'll
5 give you an opportunity. But on your application for
6 this...in this particular unit, you're representing Bill and
7 Geneva Ratliff?

8 PETER GLUBIACK: Yes.

9 BENNY WAMPLER: And they are the applicants
10 here---?

11 PETER GLUBIACK: Yes.

12 BENNY WAMPLER: ---even though in the application
13 itself, we have a number of other people listed?

14 PETER GLUBIACK: Well, we---.

15 BENNY WAMPLER: I understand.

16 PETER GLUBIACK: ---didn't know. We know that my
17 clients are the people listed and the applicant pooled. The
18 other interested parties or the defendants in this case CNX
19 is not...was not a defendant party to the suit because they
20 were not owners---.

21 BENNY WAMPLER: That's right.

22 PETER GLUBIACK: ---they were operators.

23 BENNY WAMPLER: I just wanted to clarify for the
24

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1 record---.

2 PETER GLUBIACK: Yes, I understand. In U-16---.

3 BENNY WAMPLER: ---that even though you listed all
4 the applicants for these---.

5 PETER GLUBIACK: ---as far as our records, and
6 what we know to be the case, U-16 the interested parties of
7 the listed parties are Bill and Geneva Ratliff.

8 BENNY WAMPLER: All right. Mr. Swartz, do you
9 have any comments before the Board?

10 MARK SWARTZ: We've provided the accounting.
11 We've given you a summary and we've given you a by unit
12 accounting. Anita told me this morning, and
13 she's...probably need to get Anita under oath here.

14 (Anita Tester Duty is duly sworn.)

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ANITA TESTER DUTY

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. You need to state your name for us.

A. Anita Duty.

Q. Okay. Anita, were you the person that took the operator's records and then when you received the bank's records, I think last week, tried to make sure that they were consistent and make sense of them, and then reported those collective numbers to the Board?

A. Yes.

Q. And the spreadsheets that we're looking at...have today are those things that you've done?

A. Yes.

Q. And in all instances with regard to all of the hearings that we have with regard to disbursements today in front of the Board, were you able to balance your records, the operator's records with the bank's records?

A. Yes.

Q. So, we don't have problems today?

A. No, no problems.

1 MARK SWARTZ: So, with regard to this unit, Mr.
2 Chairman, U-16 and the rest of them, it would be our
3 testimony that the bank's records and our records are
4 consistent in all instances.

5 BENNY WAMPLER: Do you accept that on behalf of
6 your client?

7 PETER GLUBIACK: For the record, let me...I've
8 indicated already, but for the record let me emphasize that
9 this sheet, which is a summary provided, I have no reason to
10 doubt its accuracy; however, I have no...absolutely no
11 verifications, supporting information or anything else. We
12 have...our application is to ask the Board and your...our
13 request would be that you request that they provide this
14 information. They have done so. Obviously, I might have
15 some questions, but for purposes of today's discussion, our
16 request is that the Board order disbursement of monies as
17 accounted for.

18 BENNY WAMPLER: Okay. Now, the additional
19 disbursement requested sheet---.

20 MARK SWARTZ: Right.

21 BENNY WAMPLER: ---also has U-16. Also, has this
22 docket number listed.

23 MARK SWARTZ: Right. That's kind of a Sam
24

1 Kennison moment. Remember Sam?

2 BENNY WAMPLER: I do. I know him well.

3 MARK SWARTZ: And he was famous for the "let's
4 make one trip." What we have done, as long as we were in
5 these units, Anita went in and did a second sheet with
6 regard to folks that have split agreements.

7 BENNY WAMPLER: Right.

8 MARK SWARTZ: And---.

9 PETER GLUBIACK: Mr. Chairman, if I might, I
10 don't...I don't know what we're talking about. If I could
11 get a copy of it. I don't have one of those.

12 LESLIE K. ARRINGTON: Oh, I'm sorry. I'm sorry.

13 BENNY WAMPLER: Oh, I thought you had it. I'm
14 sorry.

15 LESLIE K. ARRINGTON: No, I gave him the first one
16 this morning. I forgot to give him this one.

17 MARK SWARTZ: And I guess what we felt we do is,
18 if you felt we could proceed today, we would like to sort of
19 make one trip. If not, we'll get in the record and we can
20 publish a notice for next month.

21 BENNY WAMPLER: Who are you...who are you
22 representing here?

23 MARK SWARTZ: The operator.

24

1 BENNY WAMPLER: All right. Who is representing
2 the owner of the uni, the Wyatt---?
3 MARK SWARTZ: They are our lessors.
4 BENNY WAMPLER: Okay. Are you okay with that?
5 SHARON PIGEON: Did they get any kind of notice of
6 that?
7 BENNY WAMPLER: Did they have notice?
8 LESLIE K. ARRINGTON: No. No, we...we...what we
9 wanted to do is since we were here get the numbers on record
10 and then publish notice, send them notice and come back next
11 month so we don't have to...so everybody is aware of these
12 numbers. It's bal...the account is balanced. Everything is
13 in order at this point.
14 BENNY WAMPLER: I mean, I'm okay with that as far
15 as we're not making a decision on disbursement of that.
16 MARK SWARTZ: Right.
17 BENNY WAMPLER: The notice issue would be of
18 concern here.
19 MARK SWARTZ: Well, obviously, we have a split
20 agreement with them. So, they're not clueless, you know,
21 but yeah.
22 BENNY WAMPLER: I understand.
23 PETER GLUBIACK: I guess, Mr. Chairman, my
24

1 question is what...I don't know what this has to do with my
2 request.

3 BENNY WAMPLER: They're just trying to piggy back
4 your request.

5 PETER GLUBIACK: I understand that. I'm---.

6 BENNY WAMPLER: They're just trying---.

7 PETER GLUBIACK: I'm objecting. Let me put it
8 this way. I don't know what, you know---.

9 BENNY WAMPLER: You are objecting?

10 PETER GLUBIACK: Maybe some of this money belongs
11 to my clients. I'm going to find out.

12 BENNY WAMPLER: So, you have an objection to---?

13 PETER GLUBIACK: I have an objection to disbursing
14 anything else other than what I've requested.

15 BENNY WAMPLER: We're...let me make it clear.
16 We're not disbursing here today. What he's asking us to do
17 is to, while this U-16 docket number is open, to allow them
18 to make their case. They will provide notice and then come
19 back to the Board for a subsequent disbursement. It don't
20 matter to us one way or the other.

21 PETER GLUBIACK: I suppose as long as there's
22 subsequent notice. I just...I want to be clear that I...I
23 have an objection to any kind of---.

24

1 BENNY WAMPLER: There will be subsequent notice.

2 PETER GLUBIACK: ---disbursement order as a result
3 of this.

4 MARK SWARTZ: Well, you know, as long we're
5 talking about notice, we need to be consistent. You didn't
6 notice these people and you didn't notice all the other
7 people who might potentially have claims to this money. So,
8 if you're saying you can proceed with your applications
9 without noticing everybody, but when my client steps forward
10 with our lessors and says, "We would like to do the same
11 thing you're doing", I think it is disingenuous to say that
12 we have a different notice obligation than you do. So, we
13 need to, with the comfort level of the Board, have an
14 understanding as to who's entitled to notice under these
15 circumstances.

16 PETER GLUBIACK: With all due respect,
17 disingenuous my rear end, Mr. Swartz. These people do not
18 have any interest in the claims that we're making. You're
19 telling us what my clients have an interest in. We're
20 accepting that. We'd like the money. You're coming in here
21 and asking to disburse this money without any notice. We
22 noticed you that we were going to ask for this money.
23 You're coming in here and telling us this is this money,
24

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1 that's fine. But this is my hearing. I noticed you. I
2 noticed you that I wanted Bill and Geneva Ratliff's
3 accounting, you've provided it, and now what you're trying
4 to do is provide notice that all these other people should
5 get their money. That's not on...not on the docket. I
6 noticed everyone who has an interest in the money that
7 belongs to Bill and Geneva Ratliff.

8 MARK SWARTZ: Not true.

9 PETER GLUBIACK: Well, I think it is.

10 MARK SWARTZ: Everybody...this is an unallocated
11 escrow account. So everybody who has an interest in any
12 tract...tract in that unit has a potential argument that
13 your clients are being over allocated.

14 PETER GLUBIACK: And who is going to make that
15 determination? You are.

16 MARK SWARTZ: You didn't give these people notice.

17 PETER GLUBIACK: You've provided us with the
18 numbers.

19 MARK SWARTZ: You did not give those people
20 notice. What I'm saying is, if it's your position that you
21 don't have to give notice to the rest of the people in the
22 unit, and the Board has a comfort level with that, that's
23 fine. But I think the same rule will should apply to my
24

1 client.

2 PETER GLUBIACK: Why did those people have an
3 interest in my client's money?

4 MARK SWARTZ: Because the money's unallocated in
5 this unit. There's a lump of money in this unit that
6 belongs potentially to a whole bunch of people.

7 PETER GLUBIACK: But the percentage of allocation
8 is allocated by Board order and we're asking the percentage
9 of the money that is known quantity...all we ask you to do
10 is to tell us what the percentage is, and you did.

11 BENNY WAMPLER: Okay, let me---.

12 MARK SWARTZ: I can't speak for the other people,
13 though.

14 BENNY WAMPLER: ---let me...let me just say from
15 the Board's standpoint, you have an application before us.
16 You've provided notice consistent with a miscellaneous
17 petition of how we do that. The concern here was, even
18 though you have a lessor, is whether or not you're actually
19 here on behalf of Wyatt. That was the question I had.

20 MARK SWARTZ: Right.

21 BENNY WAMPLER: If you can represent that you
22 are---?

23 MARK SWARTZ: No, I'm not.

24

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1 BENNY WAMPLER: ---if not, then you said you
2 weren't, then the next hearing when you talk with them, you
3 would be, I suppose, following through with that.

4 MARK SWARTZ: With the notice?

5 BENNY WAMPLER: Yes.

6 MARK SWARTZ: Absolutely.

7 BENNY WAMPLER: Yes. So---.

8 MARK SWARTZ: I mean, that's---.

9 BENNY WAMPLER: ---that's...that's where we stand.

10 I have...so, I'm saying as far as the objection to you
11 bringing this up as we go, I'm overruling that objection,
12 that portion of the objection.

13 PETER GLUBIACK: Okay.

14 BENNY WAMPLER: Of your objection.

15 PETER GLUBIACK: Okay.

16 BENNY WAMPLER: But as far as us making a decision
17 on disbursement, we're not doing that here today---.

18 PETER GLUBIACK: Okay.

19 BENNY WAMPLER: ---except for your clients.

20 PETER GLUBIACK: All right. That's what I asked
21 for.

22 MARK SWARTZ: I'm not objecting.

23 BENNY WAMPLER: All right. Is everybody okay with
24

1 that?

2 (No audible response.)

3 BENNY WAMPLER: All right. Okay, so that...as to
4 Unit 16, anything further with that? Any other questions
5 from members of the Board?

6 (No audible response.)

7 BENNY WAMPLER: Anything further?

8 PETER GLUBIACK: Nothing for Mr. Swartz?

9 MARK SWARTZ: No.

10 MASON BRENT: So, have we established that
11 adequate notice was given for this disbursement?

12 BENNY WAMPLER: As a Board, no. I made a comment.
13 That's...that's it. Mr. Wilson, do you want address notice
14 issues here with us?

15 BOB WILSON: The requirements under miscellaneous
16 petition is that all respondents, if any, be notified of the
17 action. The respondents in this case were the people whose
18 money was to be disbursed in Tract 5, and the other parties
19 to the suit that was recently settled, and the operator of
20 record. They were the folks that were respondents in this
21 particular issue. This is consistent with what we have
22 done. Previously, when the Board was providing this notice
23 through what we refer to as the three part letter, which we
24

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1 sent out under our signature prior to disbursements, we
2 notified only those parties who were actually a party to
3 those tracts that were up for disbursement.

4 BENNY WAMPLER: Not for the entire...okay. So, I
5 would ask...I guess you that question, is the Board
6 comfortable with that?

7 MASON BRENT: Yes.

8 DENNIS GARBIS: (Indicates in the affirmative.)

9 JIM McINTYRE: Uh-huh.

10 BENNY WAMPLER: Okay. Then as to notice, we're
11 okay with notice. Then I guess the next thing is, is there
12 a motion for approval of disbursement to Bill and Geneva
13 Ratliff as presented here today?

14 JIM McINTYRE: Motion to approve.

15 MARK SWARTZ: I'm sorry, I believe that the
16 pooling records that you have on hand indicate there may be
17 an IRS lien in that unit, U-16.

18 BENNY WAMPLER: I'm sorry?

19 MARK SWARTZ: There may be an IRS lien.

20 BENNY WAMPLER: Okay.

21 MARK SWARTZ: And so you need to be comfortable
22 with that. But other than that, I have no additional
23 comment. I think it's appropriate to make the disbursement.
24

1 BENNY WAMPLER: As to an IRS lien, that would...
2 that would be applicable at disbursement. I don't know if
3 the bank...how the bank would handle that. Is that lien on
4 file?
5 MARK SWARTZ: Well, I think it's on file with you
6 all.
7 BOB WILSON: I think...and, again, I have to look
8 back in the file which I have here. I remember seeing an
9 IRS lien on a tract of land. But does that lien extend to
10 monies that would be in the escrow account? Otherwise, I
11 would think the lien would be against the escrow account,
12 would it not?
13 MARK SWARTZ: I don't know the answer to that.
14 BOB WILSON: I don't...I don't know either.
15 SHARON PIGEON: Nor do I.
16 MARK SWARTZ: You know, but there are some...there
17 are some bank and judgment liens and creditor issues as we
18 get down through some of this other stuff that you just need
19 to be aware of that. I don't know the---.
20 BENNY WAMPLER: Right.
21 MARK SWARTZ: ---answer to that question.
22 BENNY WAMPLER: I understand. Well, we'll have
23 to...we'll have to work together to find an answer to that.
24

--

1 MARK SWARTZ: And they may be satisfied. I mean,
2 these were pooled a long time ago.

3 BOB WILSON: For the record, the recorded order
4 shows the Internal Revenue Service with a tax lien against
5 Tract #3 of Unit 16.

6 PETER GLUBIACK: Which is not the tract in
7 question, as I understand it?

8 BOB WILSON: Correct.

9 BENNY WAMPLER: Are you aware of any lien on the
10 current tract in question?

11 PETER GLUBIACK: I'm not. And I will...I will...
12 again, since this has not been done before, I suppose in all
13 honesty and certainly for my protection as much as the
14 Board's protection, I think what I will do is give...and I'm
15 asking, I'll give you a title opinion letter, get you an
16 abstract, get you...I'm not sure I want to pay for a title
17 policy for you. But we can get some sort of title opinion
18 letter that that's pertaining to the specific individuals
19 that there are no judgments, liens, credits, etcetera. I
20 think that's appropriate. I hadn't dealt with that because
21 it has been a long time, but I think that's appropriate.

22 BENNY WAMPLER: Well, my experience in other
23 divisions of our department has been when there is a lien,
24

1 an IRS lien, specific to a tract, it would come out of that
2 first and then paid out after that.

3 PETER GLUBIACK: I am representing to the Board
4 that I will---.

5 BENNY WAMPLER: Sure.

6 PETER GLUBIACK: ---with regard to all of these---
7 .

8 BENNY WAMPLER: Okay.

9 PETER GLUBIACK: ---units prior to disbursement---
10 .

11 BENNY WAMPLER: You will get us---.

12 PETER GLUBIACK: ---I will furnish, I guess, to
13 Mr. Wilson a title opinion letter that the title....there is
14 no liens or anything else.

15 BENNY WAMPLER: All right.

16 PETER GLUBIACK: That's fine. I'm not aware of
17 any, but I'll certainly have someone look.

18 BENNY WAMPLER: Okay, thank you. I have a motion
19 for approval of disbursement. Is there a second?

20 DENNIS GARBIS: Second.

21 BENNY WAMPLER: Motion and second. Any further
22 discussion?

23 (No audible response.)
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1 BENNY WAMPLER: All in favor, signify by saying
2 yes.
3 (All members signify by saying yes.)
4 BENNY WAMPLER: Opposed, say no.
5 (No audible response.)
6 BENNY WAMPLER: You have approval.
7 BOB WILSON: Mr. Chairman.
8 BENNY WAMPLER: Mr. Wilson.
9 BOB WILSON: One other thing, as we mentioned
10 earlier, because of the need to keep records and supply 1099
11 forms to the IRS---.
12 BENNY WAMPLER: He needs---.
13 PETER GLUBIACK: I will supply you with social
14 security numbers and addresses of each of these receipts,
15 which I think that's what you need to prepare that 1099.
16 BOB WILSON: Yes, sir, absolutely and under
17 separate cover, these are not records that we will maintain.
18 We will pass this along to the bank because we---.
19 PETER GLUBIACK: I heard you mention bank, Mr.
20 Wilson, is it...so, the bank is going to issue the 1099?
21 BOB WILSON: Probably. We're...we're still in the
22 process now of having the IRS define exactly how this has to
23 be handled---.
24

1 PETER GLUBIACK: All right.

2 BOB WILSON: ---because it's something totally new
3 to them too, but as it has developed at this point in time,
4 it appears that we will be asking the bank to do those
5 1099s.

6 BENNY WAMPLER: If it's...what he's saying is if
7 it's an obligation of the escrow, which is representing the
8 Board, then the agent will be who we will call on and we
9 expect to have to pay for that.

10 PETER GLUBIACK: Okay. I will get names,
11 addresses and social security numbers---.

12 BOB WILSON: Thank you.

13 PETER GLUBIACK: ---which is what you need for the
14 1099.

15 BOB WILSON: Yes, sir. Yes.

16 BENNY WAMPLER: The next item on the agenda is a
17 petition from prevailing plaintiffs for disbursement of
18 funds escrowed on their behalf for Unit 17, docket number
19 93-0420-0363-01. We'd ask the parties that wish to address
20 the Board in this matter to come forward.

21 PETER GLUBIACK: Once again, Mr. Chairman, Peter
22 Glubiack on behalf in this case on U-17, the claimants are
23 Dianna Graham, Ira Gordon and Juanita Ratliff, Donald and
24

1 Anna Pearl Ratliff and Bill and Geneva Ratliff.

2 MARK SWARTZ: Mark Swartz and Anita Tester.

3 BENNY WAMPLER: Thank you. You may proceed, Mr.
4 Glubiack.

5 PETER GLUBIACK: Mr. Chairman, similar to the...to
6 the statement made previously with U-16, the application,
7 the notice of hearing and supporting affidavits and exhibits
8 are filed. I didn't submit to the Board, but I have green
9 cards. I'll represent to the Court and submit it for the
10 record notice...copies of notices to CNX and Mr. Jay Scott
11 Sexton, the attorney for Harrison-Wyatt, LLC. It has been
12 our position that the appropriate respondents and parties
13 have been notified. In addition, all claimants, individuals
14 represented here have been notified by certified mail.
15 We're seeking a...since it's already before the Board, it's
16 a little late, but we're seeking a determination of the
17 amounts to be allocated pursuant to their respective
18 interest pursuant to this Board's earlier force pooling and
19 order. We would seek disbursement of the funds as listed on
20 the escrow balance sheet submitted, dated April 20th, to
21 each of the individuals named, specifically Dianna Graham,
22 Ira Gordon and Juanita Ratliff, Donald and Anna Pearl
23 Ratliff, and Bill and Geneva Ratliff in the amount

24

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1 specified.

2 BENNY WAMPLER: For these cases, can we go ahead
3 and label this Gas and Oil Board Hearing April 20th, 2004
4 balances as of 2/29/04 as Exhibit One in all of these cases.
5 The one that says "Additional Disbursements Requested" is
6 Exhibit Two for future reference?

7 (No audible response.)

8 BENNY WAMPLER: Okay. Here again, do you agree
9 with these disbursement amounts?

10 PETER GLUBIACK: Yes, Mr. Chairman. Again, for
11 the record, to the extent of knowledge that we have, we
12 would accept it subject to further investigation. But we
13 know at least that money has been allocated.

14 BENNY WAMPLER: Mr. Swartz, do you have anything?

15 MARK SWARTZ: Other than the same comment with
16 regard to you need to look at the lien situation in 17.

17 BENNY WAMPLER: Specifically, in this one we have
18 Tract 3 involved. I believe...is that the one you mentioned
19 regarding a lien or was it---?

20 PETER GLUBIACK: This is a different unit, I
21 believe, isn't it?

22 BENNY WAMPLER: It is.

23 BOB WILSON: Yeah, this would be---.

24

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1 MARK SWARTZ: Well, there's a half dozen or more
2 liens here---.

3 BENNY WAMPLER: Okay.

4 MARK SWARTZ: ---in this...in the U-17. I don't
5 know who they apply to. I'm just warning you---.

6 BENNY WAMPLER: Okay.

7 MARK SWARTZ: ---that you probably need to look at
8 that.

9 BENNY WAMPLER: Okay.

10 PETER GLUBIACK: I will renew and will renew it
11 every time, if you want, my statement that I will
12 supply...with regard to my clients, I will supply a title
13 opinion letter with regard to liens, judgments, etcetera,
14 and in addition the necessary 1099 social security number
15 and address and name information.

16 BENNY WAMPLER: For the record then, just go ahead
17 for each of these as I call them...you're agreeing to have
18 that testimony as part of that record each time?

19 PETER GLUBIACK: To the extent that I will conduct
20 a search of the records and supply Mr. Wilson with
21 those...with that information.

22 BOB WILSON: And, again, for the record since this
23 has been brought up, the original pooling order here shows
24

1 Tract 7 to be under tax lien to the U S Internal Revenue
2 Service. Tracts 1, 2, 3, 4 and 5 to be under some sort of
3 judgment in Buchanan County, unexplained.

4 PETER GLUBIACK: Mr. Wilson, if I might ask, is
5 that a Grundy National Bank judgment?

6 BOB WILSON: One of them is, Tract 3 is that.

7 PETER GLUBIACK: I know that one has been
8 released.

9 BOB WILSON: This is a 1993 recorded order, too.
10 So, this is significantly out of date, I'm sure.

11 PETER GLUBIACK: And subject to those proffers,
12 Mr. Chairman, that's all I have to say on that particular
13 one.

14 BENNY WAMPLER: Okay. I would like for you to, as
15 go through these, to just read the allocation amount for
16 each person...each party---.

17 PETER GLUBIACK: Certainly.

18 BENNY WAMPLER: ---just so that we have that of
19 record.

20 PETER GLUBIACK: For the record, as indicated on
21 Exhibit One that has been submitted as a part of all of
22 these units, the allocation for U-17 Dianna Graham \$7,579;
23 Ira Gordon and Juanita Ratliff \$8,179.09; Donald and Anna
24

--

1 Pearl Ratliff \$16, 313.73; Bill and Geneva Ratliff
2 \$85,969.38.

3 BENNY WAMPLER: Any questions from members of the
4 Board?

5 (No audible response.)

6 BENNY WAMPLER: Anita?

7 ANITA TESTER DUTY: Well, one thing I just want to
8 make sure, that whenever the disbursement is ordered that
9 there's not a dollar amount put in there because then that
10 leaves us with a, you know, a balance in those accounts
11 sometimes that doesn't need to be there. So, actually we
12 need to go by the percent of escrow and not the dollar
13 figure because this is the balance as of the end of
14 February.

15 BOB WILSON: Excuse me, Chairman, that's a good
16 point.

17 PETER GLUBIACK: Oh.

18 BOB WILSON: The order itself...these...these
19 numbers are here to represent what it was as of the date
20 that they had the last total.

21 PETER GLUBIACK: Two...two months ago?

22 BOB WILSON: Yeah.

23 PETER GLUBIACK: The...the order itself will
24

--

1 specify that the percentage will be disbursed as of the day
2 they write the check. So, they will balance that account up
3 until that date and then disburse it from this percentage.

4 PETER GLUBIACK: So, is it...is it more
5 appropriate to read into the record the percent of escrow?
6 Is that what we're---?

7 BENNY WAMPLER: Yes, that's what they're saying.

8 PETER GLUBIACK: Okay. All right.

9 BENNY WAMPLER: If you will do that.

10 PETER GLUBIACK: Certainly.

11 SHARON PIGEON: And for that prior one too, if you
12 don't mind, even though it has been approved.

13 PETER GLUBIACK: I will go back on the record, for
14 unit U-16, according to the allocation sheet on Exhibit One,
15 the allocation percent of escrow for Bill and Geneva Ratliff
16 is 22.5527% of the current balance at the time of the order
17 to the escrow agent. On Unit U-17, Dianna Graham 5.9017%;
18 Ira Gordon and Juanita Ratliff 6.3690%; Donald and Anna
19 Pearl Ratliff 12.7034%; Bill and Geneva Ratliff 66.9436% of
20 the amount that has been account in the escrow.

21 BENNY WAMPLER: Thank you.

22 PETER GLUBIACK: And I presume that...just again
23 for clarification's sake, that would be the percent of
24

1 distribution for future revenues?

2 BENNY WAMPLER: Yes. Thank you. Mr. Swartz, do
3 you want to go ahead and pick U-16?

4 (Mark Swartz and Anita Tester Duty confer.)

5 MARK SWARTZ: No, it wouldn't be.

6 BENNY WAMPLER: What?

7

8 MARK SWARTZ: He said he assumed that that would
9 be the percentage for future revenue distribution and that
10 would be the decimal interest in B-3 or in a supplemental
11 order as opposed to a percentage of escrow. I mean, it's a
12 completely different number. So, I need to quarrel with the
13 tag on.

14 BOB WILSON: I think we just need clarification on
15 that. The number that is given here is the percentage of
16 the balance of the escrow---.

17 MARK SWARTZ: In escrow.

18 BOB WILSON: ---account attributable to that unit.
19 Subsequent distribution would be each individual tracts
20 interest in the unit as a whole and not its interest in
21 the...in the escrow account.

22 BENNY WAMPLER: Yeah, that's true.

23 MARK SWARTZ: Correct. They're two different.

24

--

1 That would be reported in an supplemental order or a pooling
2 order as a percentage.

3 BENNY WAMPLER: And we won't continue to have
4 money going into the escrow after this Board order
5 disbursement. Do you understand?

6 MARK SWARTZ: Correct.

7 PETER GLUBIACK: Right. Right. You will not...
8 there will not be any subsequent orders because the money
9 will---.

10 BENNY WAMPLER: Because we're...once we're doing
11 this, that money will be...we will be ordering them to pay
12 directly.

13 PETER GLUBIACK: To pay direct, right.

14 MARK SWARTZ: In accordance with the previous
15 order.

16 BENNY WAMPLER: In accordance with the previous
17 order, right. Which would not work out---.

18 PETER GLUBIACK: Right. But we would not be
19 coming back to you because you will be ordering them to
20 disburse it directly to us?

21 BENNY WAMPLER: Right. And the point is,---?

22 MARK SWARTZ: They'll do both things.

23 BENNY WAMPLER: ---and it's one well taken, it's
24

1 not going to be by these percentages because that's the
2 percentage in escrow. It will be in accordance with the
3 order, the original order.

4 PETER GLUBIACK: Yes.

5 MARK SWARTZ: It's the piece of the royalty, which
6 is a different---.

7 BENNY WAMPLER: Right. Do you want to go ahead,
8 Mr. Swartz, just for the record, since we went back and read
9 in U-16 percent of escrow there?

10 MARK SWARTZ: Okay, yes.

11 BENNY WAMPLER: Just to...I'm trying to keep the
12 record---.

13 MARK SWARTZ: On the...on the additional
14 disbursements requested, U-16 would be 42.1381%. Then we
15 didn't have an issue with regard to U-17.

16 BENNY WAMPLER: That's right.

17 MARK SWARTZ: Thank you.

18 BENNY WAMPLER: Thank you. Okay. Any questions
19 from members of the Board?

20 (No audible response.)

21 BENNY WAMPLER: Is there a motion for approval of
22 disbursement?

23 JIM McINTYRE: Motion to approve.

24

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1 BENNY WAMPLER: Is there a second?

2 DENNIS GARBIS: Second.

3 BENNY WAMPLER: Motion and second. Any further
4 discussion?

5 (No audible response.)

6 BENNY WAMPLER: All in favor, signify by saying
7 yes.

8 (All members signify by saying yes.)

9 BENNY WAMPLER: Opposed, say no.

10 (No audible response.)

11 BENNY WAMPLER: You have approval. The next item
12 on the agenda is a petition for disbursement of funds for
13 docket number V...docket number VGOB...well, we don't have a
14 VGOB on here, do we. VGOB-93-0420-0355-01. We'd ask the
15 parties that wish to address the Board in this matter to
16 come forward at this time.

17 PETER GLUBIACK: Peter Glubiack for the
18 applicants, Mr. Chairman.

19 BENNY WAMPLER: Mark?

20 MARK SWARTZ: Mark Swartz and Anita Duty. I'm
21 going to change her name.

22 PETER GLUBIACK: We are on...if I'm correct, we
23 are on U-18?

24

1 MARK SWARTZ: Right.

2 BENNY WAMPLER: That's correct. And your...the
3 owners in the unit that you have listed, Mr. Glubiack?

4 PETER GLUBIACK: For the record on U-18, we have
5 listed as owners the applicants Dianna Graham and the
6 percentage of 12.4885% of the escrow; Ira Gordon and Juanita
7 Ratliff to the percentage of...in the percentage of 54.0823%
8 in unit U-18. Again, subject to the filing of the
9 application, the notice of hearing being sent certified
10 mail/return receipt to CNX Energy and Harrison Wyatt, LLC,
11 which was done and subsequent supplemental of affidavits and
12 supporting exhibits that we ask the Board to order the
13 distribution according to that percent of escrow as listed.

14 BENNY WAMPLER: Thank you. Mr. Swartz, do you
15 have any comment?

16 MARK SWARTZ: No.

17 BENNY WAMPLER: Questions from members of the
18 Board?

19 MARK SWARTZ: Well, actually, I'm sorry. We've
20 got the lien issue.

21 PETER GLUBIACK: We want to read the other
22 percent---.

23 MARK SWARTZ: But we've already made a record on
24

--

1 that.

2 BENNY WAMPLER: Yeah, we're just making a record
3 of that for which one.

4 MARK SWARTZ: So, I don't have to repeat that?

5 BENNY WAMPLER: Right.

6 MARK SWARTZ: Okay, fine.

7 PETER GLUBIACK: The same response for the record,
8 submission will be made of a title opinion listing any
9 liens, judgments, etcetera, in addition to the necessary
10 1099 filing information.

11 BENNY WAMPLER: What I'm asked is that be repeated
12 for each case, if that---.

13 MARK SWARTZ: Okay, no problem.

14 PETER GLUBIACK: Yes. Okay.

15 BENNY WAMPLER: That's what we'll have happen.
16 You won't have to restate it. That way we can move...move
17 through these.

18 BENNY WAMPLER: Any questions from members of the
19 Board?

20 (No audible response.)

21 BENNY WAMPLER: Is there a motion for approval of
22 disbursement?

23 JIM McINTYRE: Motion to approve.

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1 BENNY WAMPLER: Is there a second?
2 DENNIS GARBIS: Second.
3 BENNY WAMPLER: Any further discussion?
4 (No audible response.)
5 BENNY WAMPLER: All in favor, signify by saying
6 yes.
7 (All members signify by saying yes.)
8 BENNY WAMPLER: Opposed say no.
9 (No audible response.)
10 BENNY WAMPLER: You have approval. The next item
11 is a petition for disbursement for docket number VGOB-94-
12 1024-0475-01. That would be...I'm looking for the unit
13 number, U-19. I don't see it on here.
14 BOB WILSON: Mr. Chairman---.
15 BENNY WAMPLER: It's not on here.
16 BOB WILSON: ---unit U-19 was not...we didn't get
17 proper submission on that. So, I think you probably have
18 something in your pack that states that has to be carried
19 forward, I believe, until next month---.
20 BENNY WAMPLER: Okay, so that's---.
21 BOB WILSON: ---for whatever time you want to come
22 back. We need to carry it forward.
23 PETER GLUBIACK: Right. We would stipulate for
24

1 the record, Mr. Chairman, that the paperwork for U-19 was
2 not submitted in a timely fashion and was, therefore, not on
3 the docket today.

4 BENNY WAMPLER: Okay.

5 PETER GLUBIACK: We wish it was, but it's not.

6 BENNY WAMPLER: I understand.

7 BOB WILSON: Actually, it is on the docket.

8 PETER GLUBIACK: It's on the docket---.

9 BOB WILSON: Yeah.

10 PETER GLUBIACK: ---but the supporting...the
11 necessary information is not in front of them.

12 BOB WILSON: We'll need to carry it forward.

13 PETER GLUBIACK: We ask to continue that to a
14 subsequent day.

15 BENNY WAMPLER: Okay. We'll continue...twenty-two
16 is continued. All right, the next is a petition for
17 disbursement of funds for Unit V-16, docket number VGOB-95-
18 0818-0511-02. I observe that the same parties are still at
19 the table. Mr. Glubiack, you may proceed.

20 PETER GLUBIACK: Yes, sir, Mr. Chairman. Thank
21 you. Once again, for the record, Peter Glubiack in this
22 case on V-16 representing Donald and Anna...actually as well
23 Anna Pearl Ratliff. We would ask the Court, or the Board,
24

1 to enter an order disbursing the funds currently held in
2 escrow for those...that individual in the amount of 16.2473%
3 and 38.0572% constituting their interest in that escrow
4 account. Once again, we will submit the necessary title
5 information and ownership information for 1099 and would ask
6 the Court... once again as before the application, notice
7 and affidavits were submitted and sent to the appropriate
8 parties.

9 BENNY WAMPLER: Thank you. Mr. Swartz.

10 MARK SWARTZ: I would like to indicate that we're
11 also requesting out of V-16 a distribution to Landon Wyatt
12 or the Wyatt interest and BPC, a partial distribution of
13 39.6027%.

14 BENNY WAMPLER: Questions from members of the
15 Board?

16 (No audible response.)

17 BENNY WAMPLER: Is there a motion for approval of
18 disbursement?

19 MASON BRENT: May I get just a clarification?

20 BENNY WAMPLER: Mr. Brent.

21 MASON BRENT: Did you say you were...were asking
22 for disbursement?

23 MARK SWARTZ: Next month.

24

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1 BENNY WAMPLER: This has been conditioned upon---.

2 MASON BRENT: I just wanted to make sure we were

3 still under those conditions.

4 MARK SWARTZ: Right.

5 BENNY WAMPLER: Thank you.

6 MARK SWARTZ: Right.

7 PETER GLUBIACK: And I'm correct, Mr. Brent, that

8 as a result of this meeting, there will be no order of

9 disbursement...ordering disbursement of that money, that's

10 going to be for a subsequent meeting?

11 BENNY WAMPLER: That's exactly right.

12 MASON BRENT: That's correct.

13 BENNY WAMPLER: That will be placed on that docket

14 for next month or subsequent months, if necessary.

15 BOB WILSON: Mr. Chairman, are we then actually

16 going to carry these things forward as well as completing

17 this portion of it today because these are not on the docket

18 for next month? I think we're beyond the deadline for next

19 month's docket. So---.

20 BENNY WAMPLER: I was continuing these for next

21 month.

22 BOB WILSON: We need to continue this portion of

23 it until next month?

24

1 BENNY WAMPLER: That's what he requested---.

2 BOB WILSON: Okay, okay.

3 BENNY WAMPLER: ---to continue these.

4 BOB WILSON: Okay.

5 BENNY WAMPLER: And that's why I said, that's my
6 understanding for each one of these that's on Exhibit Two
7 will be continued to next month.

8 BOB WILSON: I just wanted to make sure of the
9 logistics. Sure.

10 PETER GLUBIACK: And I'm sorry, Mr. Wilson, did
11 that mean...I thought you said next month...the deadline has
12 passed. So, they're not on next month or they are on next
13 month?

14 BOB WILSON: Well, it's too late for them to file
15 for this...these are going to be carried forward. That's
16 the point I was trying to clarify.

17 BENNY WAMPLER: There will be a public notice is
18 what he's saying.

19 PETER GLUBIACK: For the May the 13th meeting
20 or---?

21 BOB WILSON: Yes.

22 MARK SWARTZ: Yes.

23 BENNY WAMPLER: Not for you...not for yours.

24

--

1 PETER GLUBIACK: I understand. But I just---.

2 BENNY WAMPLER: Sure.

3 PETER GLUBIACK: I wasn't clear that they could be
4 on May the 13, but you're saying they are.

5 BENNY WAMPLER: That's because the Board is
6 continuing them. It's not...it's too late to file an
7 individual application for it. But the Board has the power
8 to continue until its next hearing anything that's brought
9 before it today.

10 PETER GLUBIACK: Okay. That I understand. Thank
11 you.

12 BENNY WAMPLER: Sure.

13 BOB WILSON: And, again, just for clarification
14 the hearing is on May the 18th.

15 BENNY WAMPLER: It's the third Tuesday---.

16 PETER GLUBIACK: Right.

17 BENNY WAMPLER: ---of every month. Is there a
18 motion for approval?

19 JIM McINTYRE: Motion to approve.

20 BENNY WAMPLER: Second?

21 DENNIS GARBIS: Second.

22 BENNY WAMPLER: Any further discussion?

23 (No audible response.)

24

1 BENNY WAMPLER: All in favor, signify by saying
2 yes.
3 (All members signify by saying yes.)
4 BENNY WAMPLER: Opposed, say no.
5 (No audible response.)
6 BENNY WAMPLER: You have approval. The next item
7 is a petition for disbursement of funds for Unit V-17,
8 docket number VGOB-95-0718-0509-01. We'd ask the parties
9 that wish to address the Board in this matter to come
10 forward at this time. I observe the same parties are here.
11 Mr. Glubiack, I'll just ask you to read your---.
12 PETER GLUBIACK: Thank you.
13 BENNY WAMPLER: ---clients into the record.
14 PETER GLUBIACK: Mr. Chairman. Again, thank you.
15 I'm here on behalf in this case on Unit V-17. We have the
16 following individuals: Dianna Graham, Bill and Geneva
17 Ratliff and Donald and Anna Pearl Ratliff. In this
18 particular case, we would ask for distribution of funds
19 currently held on account in the escrow account. In Dianna
20 Graham's case the percentage of 48.0995%; Bill and Geneva
21 Ratliff .01... .1712%; for Anna Pearl Ratliff, 51.7293%,
22 subject to the same proffers as earlier indicated,
23 submission of a title opinion and necessary IRS reporting
24

1 and ownership information. Once again, the notice
2 application affidavits and exhibits were submitted and sent
3 certified mail return receipt.

4 BENNY WAMPLER: Thank you. And just for
5 clarification for the record, Bill and Geneva Ratliff, you
6 clarified to say it's .1712%.

7 PETER GLUBIACK: I mumbled it wrong, Mr. Chairman,
8 .1712%.

9 BENNY WAMPLER: Thank you. Mr. Swartz, do you
10 have anything?

11 MARK SWARTZ: Not on that one.

12 BENNY WAMPLER: Questions from members of the
13 Board?

14 (No audible response.)

15 BENNY WAMPLER: Is there a motion for disbursement
16 approval?

17 JIM McINTYRE: Motion to approve.

18 BENNY WAMPLER: Is there a second?

19 DENNIS GARBIS: Second.

20 BENNY WAMPLER: Any further discussion?

21 (No audible response.)

22 BENNY WAMPLER: All in favor, signify by saying
23 yes.

24

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1 (All members signify by saying yes.)

2 BENNY WAMPLER: Opposed, say no.

3 (No audible response.)

4 BENNY WAMPLER: You have approval. The next item
5 on the agenda is a petition for disbursement of funds for
6 Unit V-18, docket number VGOB-96-1016-0556-01. We'd ask the
7 parties that wish to address the Board in this matter to
8 come forward at this time.

9 PETER GLUBIACK: Once again, Mr. Chairman, Peter
10 Glubiack representing in this case on Unit V-17 the
11 following individuals, and would request that there be an
12 order entered disbursing their funds held on account in the
13 following percentages: Dianna Graham 44.3027%; Connie Sue
14 Ratliff 41.6320% and .0139%; Ira Gordon and Juanita Ratliff
15 8.0564%; Ira and Gordon...Ira Gordon and Juanita Ratliff
16 .2671%; and again the same individuals Ira Gordon and
17 Juanita Ratliff .4006%. The necessary and required notice
18 of application, affidavit and supporting exhibits were sent
19 to the responding parties by certified mail/return receipt
20 requested.

21 SHARON PIGEON: Would you repeat the figure for
22 the second Connie Sue Ratliff, just in case?

23 MASON BRENT: Tract 7.

24

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1 SHARON PIGEON: Tract 7.

2 PETER GLUBIACK: point...this is Connie Sue
3 Ratliff Tract 7, .1039%.

4 MASON BRENT: You got it right that time.

5 SHARON PIGEON: Thank you.

6 PETER GLUBIACK: For the record, I think CNX ought
7 to be ordered to round those up to the nearest whole number
8 and you wouldn't have to deal with those. With that
9 submission, Mr. Chairman, I'd like to request the Board
10 order disbursing those funds as indicated.

11 BENNY WAMPLER: Questions from members of the
12 Board?

13 (No audible response.)

14 BENNY WAMPLER: Do you have anything, Mr. Swartz?

15 MARK SWARTZ: No.

16 BOB WILSON: Mr. Chairman.

17 BENNY WAMPLER: Mr. Wilson.

18 BOB WILSON: Again, just for clarification, I
19 believe that it may have been misstated there that...when
20 you started reading these you may have said V-17. This is
21 actually Unit V-18 that we're doing here.

22 MASON BRENT: Right.

23 PETER GLUBIACK: If I indicated that...the
24

1 requested disbursement is on Unit V, as in Victor, 18.

2 BENNY WAMPLER: Is there a motion for approval of
3 disbursement as presented?

4 JIM McINTYRE: Motion to approve.

5 BENNY WAMPLER: Is there a second?

6 DENNIS GARBIS: Second.

7 (All members signify by saying yes.)

8 BENNY WAMPLER: Any further questions?

9 (No audible response.)

10 BENNY WAMPLER: All in favor, signify by saying
11 yes.

12 (All members signify by saying yes.)

13 BENNY WAMPLER: Opposed, say no.

14 (No audible response.)

15 BENNY WAMPLER: You have approval. The next item
16 on the agenda is a petition for disbursement of funds for
17 Unit V-20, docket number VGOB-92-0721-0243-01. Again, I
18 observe the same parties at the table. Mr. Glubiack, you
19 may proceed.

20 PETER GLUBIACK: Thank you, Mr. Chairman. In this
21 particular instance, we're dealing with item, or Unit V as
22 in Victor, 20. The sole listed applicant in this unit is
23 Dianna Graham. We would request disbursement of funds held
24

1 on account for her according to the percent escrow of
2 4.8731%. Again, subject to the earlier indicated proffers
3 of submission of a title opinion and necessary ownership and
4 IRS information.

5 BENNY WAMPLER: Mr. Swartz?

6 MARK SWARTZ: As indicated on Exhibit 2 today in
7 Unit V-20, we would also be requesting next month on the
8 docket approval of a disbursement pertaining to Tract 3
9 based on a split agreement and a percent of the escrow of
10 2.4029%.

11 BENNY WAMPLER: Thank you. Any questions from
12 members of the Board?

13 (No audible response.)

14 BENNY WAMPLER: Is there a motion for approval of
15 disbursement?

16 JIM McINTYRE: Motion to approve.

17 BENNY WAMPLER: Is there a second?

18 DENNIS GARBIS: Second.

19 BENNY WAMPLER: Any further discussion?

20 (No audible response.)

21 BENNY WAMPLER: All in favor, signify by saying
22 yes.

23 (All members signify by saying yes.)
24

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1 BENNY WAMPLER: Opposed, say no.
2 (No audible response.)
3 BENNY WAMPLER: You have approval. The next item
4 on the agenda is a petition for disbursement of funds for
5 Unit W-17, docket number VGOB-95-0718-0508-01. I observe
6 the same parties at the table. Mr. Glubiack, you may
7 proceed.
8 PETER GLUBIACK: Thank you, Mr. Chairman. If I'm
9 correct, I believe we're dealing with item W-17...Unit W-17.
10 BENNY WAMPLER: That's right.
11 PETER GLUBIACK: I would ask for distribution,
12 again, to the sole individual applicant in this particular
13 unit in the percentage to Dianna Graham and the percent
14 escrow of 100%. Subject to the conditions earlier indicated
15 and proffered, title opinion and ownership information.
16 Necessary affidavit application and notice were sent
17 registered mail.
18 BENNY WAMPLER: Okay. Mr. Swartz, do you have
19 anything?
20 MARK SWARTZ: No, I don't.
21 BENNY WAMPLER: Questions from members of the
22 Board?
23 (No audible response.)
24

1 BENNY WAMPLER: Is there a motion for approval of
2 disbursement?

3 JIM McINTYRE: Motion to approve.

4 BENNY WAMPLER: Is there a second?

5 DENNIS GARBIS: Second.

6 BENNY WAMPLER: Any questions?

7 (No audible response.)

8 BENNY WAMPLER: All in favor, signify by saying
9 yes.

10 (All members signify by saying yes.)

11 BENNY WAMPLER: Opposed, say no.

12 (No audible response.)

13 BENNY WAMPLER: You have approval. The next item
14 on the agenda is a petition for disbursement of funds for
15 Unit W-18, docket number VGOB-95-0815-0510-01. Observing
16 that the same parties are at the table, Mr. Glubiack, you
17 may proceed.

18 PETER GLUBIACK: Thank you, Mr. Chairman. Once
19 again representing the applicants in this instance on W-18.
20 The applicants Connie Sue Ratliff and Dianna Graham are
21 requesting disbursement or an order from this Board
22 disbursing funds subject to the proffers made earlier in the
23 amount, or escrow amount, percentage of Connie Sue Ratliff
24

1 .9709%; Dianna Graham 99.0291%.

2 BENNY WAMPLER: Mr. Swartz, do you have any
3 comment?

4 MARK SWARTZ: Not on W-18.

5 BENNY WAMPLER: Any questions from members of the
6 Board?

7 (No audible response.)

8 BENNY WAMPLER: Is there a motion for approval?
9 (No audible response.)

10 JIM McINTYRE: Motion to approve.

11 BENNY WAMPLER: Is there a second?

12 DENNIS GARBIS: Second.

13 BENNY WAMPLER: Motion and second. Any further
14 discussion?

15 (No audible response.)

16 BENNY WAMPLER: All in favor, signify by saying
17 yes.

18 (All members signify by saying yes.)

19 BENNY WAMPLER: Opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have approval. The next item
22 on the agenda is a petition for disbursement of funds for
23 Unit W-19, docket number VGOB-92-1215-0305-01. Observing
24

1 that the same parties are at the table, Mr. Glubiack, you
2 may proceed.

3 BENNY WAMPLER: Thank you, Mr. Chairman. We're
4 dealing with Unit W-19, with one applicant seeking an order
5 from this Board disbursing funds to Dianna Graham in the
6 amount...escrow percentage amount of 67.4988%. Subject to
7 the earlier proffers of title opinion and ownership IRS
8 reporting data. Again, notice of application and necessary
9 affidavits were filed and sent registered mail, certified
10 receipt.

11 BENNY WAMPLER: Mr. Swartz, any comment?

12 MARK SWARTZ: Nothing on that one.

13 BENNY WAMPLER: Questions from members of the
14 Board?

15 (No audible response.)

16 BENNY WAMPLER: Is there a motion for approval for
17 disbursement?

18 BOB WILSON: Mr. Chairman, excuse me one second,
19 please.

20 BENNY WAMPLER: Mr. Wilson.

21 BOB WILSON: W-19 was one of the old orders that
22 had actually three docket numbers attached to it that was
23 before we started using 01s for subsequent actions
24

1 apparently. The original W-19 order, which was superceded
2 by 0305, which we're looking at now, actually has \$22 in the
3 escrow account. It's subject to the same interest as this.

4 I would like to request the Board that we be allowed to
5 incorporate all of this in the same order for disbursement
6 and to close out that basic portion of it.

7 BENNY WAMPLER: Do you---?

8 PETER GLUBIACK: I would certainly like my client
9 to get her \$16.

10 BENNY WAMPLER: Anita.

11 ANITA TESTER DUTY: Just for the record, whenever
12 Rachel from Wachovia sent me the accounting, that \$22 was
13 included in the first deposit. Then the second account
14 was...it's like she just transferred it in there like the
15 first of...it had a date of April the...April the 30th or I
16 mean, March.

17 BOB WILSON: So, it is actually included in this
18 accounting?

19 ANITA TESTER DUTY: So, the \$22 is
20 included...yeah, yeah.

21 BOB WILSON: Okay.

22 ANITA TESTER DUTY: So, it's not a separate
23 account anymore. I don't know if that was just what she did

24

--

1 on the sheet.

2 BOB WILSON: Okay, yeah, we probably need to look
3 at that just from a record standpoint. I think we would
4 need to---.

5 SHARON PIGEON: Bob, you have---.

6 BOB WILSON: ---acknowledge both docket numbers in
7 the order.

8 SHARON PIGEON: Do you have that original number
9 so we can have it in the record now?

10 BOB WILSON: Yes. Yes. That would be VGOB-92-
11 1117-0290.

12 BENNY WAMPLER: Did you get that, Mr. Glubiack?

13 PETER GLUBIACK: Yes, I did. If I'm correct, the
14 gist of it is that the \$22 is in the account?

15 SHARON PIGEON: We think.

16 BOB WILSON: Actually---.

17 SHARON PIGEON: But we're going to---.

18 BENNY WAMPLER: Subject to verification.

19 MARK SWARTZ: It's...it's listed on the
20 spreadsheets that the Board has and, Peter, you should have
21 as of 4/30/03. Is that what you're talking about, that \$22?

22 ANITA TESTER DUTY: Yeah. Uh-huh.

23 LESLIE K. ARRINGTON: Okay, Mark, we didn't hand
24

1 out complete sets other than to Bob.

2 MARK SWARTZ: Oh, okay. Okay. Well, he has got
3 the number. Okay, I'm sorry. But we're showing \$22.16,
4 right, as of 3/31/03?

5 BOB WILSON: Yes. And she actually...the
6 accounting actually shows it under the other number that
7 we...we just read off here.

8 MARK SWARTZ: Right.

9 BOB WILSON: So, it was included in this
10 accounting.

11 BENNY WAMPLER: What we're doing is incorporating
12 the two numbers---.

13 BOB WILSON: Yes, sir.

14 BENNY WAMPLER: ---subject to further
15 reconciliation and disbursement.

16 SHARON PIGEON: So, if we use the correct
17 percentage in both docket numbers, it's going to get it
18 either way?

19 MARK SWARTZ: No, what...what Anita is telling you
20 is it's already in this...it's co-mingled, as far as we
21 know, and we're accounting for it, but you probably need to
22 use all the right docket numbers. But I think the
23 number...the \$22 is in the number you have in front of you.

24

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1 BENNY WAMPLER: I hear what you're saying. I'm
2 just picking up both---.

3 MARK SWARTZ: Right. Both things.

4 BENNY WAMPLER: As far as what the Board is doing,
5 we're putting both orders in here...both...both docket
6 numbers for disbursement order.

7 BOB WILSON: There was a third docket that has
8 nothing in the account.

9 MARK SWARTZ: Okay, okay.

10 SHARON PIGEON: But it is this unit?

11 PETER GLUBIACK: I guess, Mr. Wilson, I'd ask the
12 Board if it's okay with then, that...just in case, I'd ask
13 that all three docket number be listed on that order so
14 that---.

15 SHARON PIGEON: I agree.

16 BENNY WAMPLER: I think that would be better, too.

17 PETER GLUBIACK: If it's discovered that there's
18 something in it, then it's ordered to be disbursed
19 percent...according to the percentage.

20 BENNY WAMPLER: Go ahead...go ahead and read that
21 docket number if you have that.

22 BOB WILSON: Sure. I'm going to have to find that
23 one. The other docket number will be 92-1117-0290.

24

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1 SHARON PIGEON: Didn't you just give us that?
2 PETER GLUBIACK: That's the same number you read
3 before.
4 BENNY WAMPLER: Yeah.
5 BOB WILSON: Let's try again then.
6 BENNY WAMPLER: We have that one.
7 BOB WILSON: Okay. I'm sorry, let me go back here
8 then. Okay, the account that has the balance, the \$22.16
9 balance, is 92-0915-0265. The subsequent order, which was
10 essentially a supplemental, which has nothing in the escrow
11 account and no escrow account established, is 92-1117-0290.
12 The order under which we are disbursing is 92-1215-0305.
13 I'm sorry about the confusion.
14 BENNY WAMPLER: That's fine. What I'm doing now
15 is combining all three of those for the purposes of enabling
16 disbursement.
17 PETER GLUBIACK: Thank you, Mr. Chairman.
18 BENNY WAMPLER: Any questions from members of the
19 Board?
20 (No audible response.)
21 BENNY WAMPLER: Is there a motion for approval of
22 disbursement?
23 JIM McINTYRE: Motion to approve.
24

1 BENNY WAMPLER: Is there a second?

2 DENNIS GARBIS: Second.

3 BENNY WAMPLER: Any further discussion?

4 (No audible response.)

5 BENNY WAMPLER: All in favor, signify by saying

6 yes.

7 (All members signify by saying yes.)

8 BENNY WAMPLER: Opposed, say no.

9 (No audible response.)

10 BENNY WAMPLER: You have approval. The next item

11 is a petition for disbursement of funds for Unit VP8SGU1,

12 docket number VGOB-95-1024-0526-02. We'd ask the parties

13 that wish to address the Board in this matter to come

14 forward at this time. Observing that the same parties are

15 here, Mr. Glubiack, you may proceed.

16 PETER GLUBIACK: Thank you, Mr. Chairman. Once

17 again, the same factors, notice of application and

18 affidavits were mailed to the appropriate respondents

19 certified mail/return receipt requested. We would proffer

20 the same conditions. We would furnish a title opinion

21 letter with regard to that unit. The individual in this

22 particular case, the only individual listed is Dianna

23 Graham. We would ask the Court...the Board enter an

24

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1 disbursement order in accordance with her percentage
2 interest in the escrow in the amount of 13.7143%. I think
3 I've covered it.

4 BENNY WAMPLER: Okay, Mr. Swartz.

5 MARK SWARTZ: I would like to indicate that the
6 percentages that we will back here on in that same unit next
7 month would be Hugh MacRae/CNX Tract 13. The percentage of
8 escrow is 8.7279%; Hugh MacRae/CNX Tract 14, percentage of
9 escrow 9.0375%; Hugh MacRae/CNX Tract 18, percentage of
10 escrow 12.6608%.

11 BENNY WAMPLER: Any questions from members of the
12 Board?

13 (No audible response.)

14 BENNY WAMPLER: Any questions from members of the
15 Board?

16 (No audible response.)

17 BENNY WAMPLER: Is there a motion for a
18 disbursement order as requested?

19 JIM MCINTYRE: Motion to approve.

20 BENNY WAMPLER: Is there a second?

21 DENNIS GARBIS: Second.

22 BENNY WAMPLER: All in favor, signify by saying
23 yes.

24

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1 (No audible response.)

2 BENNY WAMPLER: Opposed, say no.

3 (No audible response.)

4 BENNY WAMPLER: You have approval. The final item
5 is a petition for disbursement of funds for unit VP8SGU2,
6 docket number VGOB-97-0617-0587-01. We'd ask the parties
7 that wish to address the Board to come forward at this time.
8 Observing that the same parties are here. Mr. Glubiack,
9 you may proceed.

10 PETER GLUBIACK: Thank you, Mr. Chairman. Once
11 again, representing in this instance the applicant Jerry and
12 Phyllis Raines, the sole applicant, represented today before
13 the Board. I'd ask an order distributing funds to them
14 pursuant to their escrow interest as listed on Exhibit One
15 at 4.9212%. Again, subject to my proffer to furnish title
16 information and ownership information. Once again, notice
17 of application...notice of hearing, application, affidavits
18 and supporting documentation was sent certified mail return
19 receipt requested to the afore-listed parties.

20 BENNY WAMPLER: Mr. Swartz.

21 MARK SWARTZ: I'd like to indicate that next month
22 we'll be here with regard to that same sealed gob unit. In
23 Tract 8 will be with regard to Wyatt/Island Creek Coal

24

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1 requesting a percent of escrow in the amount of 1.4234 to be
2 distributed; with regard to Wyatt/Garden Realty Tract 10a,
3 percentage of escrow 20.1749%; Wyatt/CNX/Oakwood Gathering
4 Tract 10d, a percent of escrow 38.5342%; Wyatt/Garden Realty
5 Tract 10c, percent of escrow 17.4614%; and with regard to
6 Tract 10d, Wyatt/Garden Realty 1.4783%.

7 BENNY WAMPLER: Any questions from members of the
8 Board?

9 (No audible response.)

10 BENNY WAMPLER: Is there a motion for approval for
11 disbursement?

12 JIM McINTYRE: Motion to approve.

13 BENNY WAMPLER: Is there a second?

14 DENNIS GARBIS: Second.

15 BENNY WAMPLER: Any questions?

16 (No audible response.)

17 BENNY WAMPLER: All in favor, signify by saying
18 yes.

19 (All members signify by saying yes.)

20 BENNY WAMPLER: Opposed, say no.

21 (No audible response.)

22 BENNY WAMPLER: You have approval. Thank you very
23 much.

24

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1 PETER GLUBIACK: Thank you, Mr. Chairman.

2 BOB WILSON: Mr. Chairman.

3 BENNY WAMPLER: Mr. Wilson.

4 BOB WILSON: Since we are relatively tight and

5 constrained as to under what circumstances that we can

6 disburse money from the account, I don't believe we got any

7 background material on the record as to why we are

8 disbursing these monies today relative to the Court decision

9 and that sort of thing. We have documents on file and have

10 been provided by Mr. Glubiack. But possibly for the record,

11 a brief description of what led to these disbursements.

12 BENNY WAMPLER: You know, I guess we had it on

13 record---.

14 PETER GLUBIACK: I can certainly do that---.

15 BENNY WAMPLER: ---the last time when Mr.

16 Glubiack...two...two hearings ago.

17 PETER GLUBIACK: I believe so. But, Mr. Chairman,

18 at the request of Mr. Wilson, once again as he indicated and

19 is noted in the body of both the notice and particularly the

20 applications for each of the units that we just covered,

21 this matter was filed almost four years ago as a declaratory

22 judgment action in Buchanan Circuit Court seeking a

23 determination of ownership among conflicting claimants to

24

1 coalbed methane and therefore the escrow of royalty payment
2 amounts on account. That order was entered in December of
3 2001. It was then appealed to the Virginia Supreme Court,
4 argued and ultimately an opinion was rendered on March the
5 5th of this year 2004, all of which is a part of the record
6 submitted...should be made a part of the record has been
7 submitted to the Board as part of the exhibits submitted
8 with the applications and notices. The ultimate Supreme
9 Court order upheld Judge Williams' order, which then ordered
10 a disbursement of funds to the parties who applied today
11 before you.

12 BENNY WAMPLER: Thank you very much.

13 PETER GLUBIACK: So there has been...for the
14 record, there has been a, what I would consider, a final
15 judicial determination with regard to ownership of coalbed
16 methane.

17 BENNY WAMPLER: Thank you.

18 PETER GLUBIACK: Thank you, sir.

19 BENNY WAMPLER: As a wrap up for the Board, we've
20 continued eighteen through twenty...or through thirty-one
21 until next month. At which time...I guess you'll be back,
22 Mr. Glubiack, for twenty-two?

23 PETER GLUBIACK: I think there are two different
24

1 ones. I think it's U-19 and 20.

2 BENNY WAMPLER: It's U-19.

3 PETER GLUBIACK: There are two of them, I believe.

4 I don't know when.

5 BENNY WAMPLER: Okay. All right. Mr. Wilson, do

6 you have any final...we've already approved the minutes from

7 the last time.

8 BOB WILSON: Maybe we need to clarify...I don't

9 think...did we carry forward more than one of your---?

10 BENNY WAMPLER: Only one that I know of.

11 PETER GLUBIACK: I'm not even sure you carried it

12 forward. If you did, that's great.

13 BENNY WAMPLER: We continued number twenty-two. I

14 went ahead---.

15 PETER GLUBIACK: Which means we can come back in

16 May?

17 BOB WILSON: Yes.

18 SHARON PIGEON: Yes.

19 BENNY WAMPLER: Yes, it does.

20 PETER GLUBIACK: Oh.

21 BENNY WAMPLER: Yeah, I continued it---.

22 PETER GLUBIACK: Better than I thought.

23 BENNY WAMPLER: Yeah.

24

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1 PETER GLUBIACK: I thought I had to do...okay.
2 BOB WILSON: I think you mentioned two---.
3 PETER GLUBIACK: I owe you some paperwork, but I
4 can come back in May?
5 BENNY WAMPLER: Right.
6 BOB WILSON: Yes.
7 BENNY WAMPLER: That's right.
8 PETER GLUBIACK: Thank you. I will be here.
9 BOB WILSON: And then the five units that you
10 folks are going to address next time are the ones that were
11 carried forward in addition to the ones we carried forward
12 in the course of the regular business?
13 BENNY WAMPLER: Right.
14 BOB WILSON: I just wanted to make sure.
15 BENNY WAMPLER: Do you have anything further?
16 BOB WILSON: No, sir.
17 BENNY WAMPLER: Anything from the Board members?
18 (No audible response.)
19 BENNY WAMPLER: Thank you very much. Thank all of
20 you. Appreciate it very much.
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1 STATE OF VIRGINIA,

2 COUNTY OF BUCHANAN, to-wit:

3 I, Sonya Michelle Brown, Court Reporter and Notary
4 Public for the State of Virginia, do hereby certify that the
5 foregoing hearing was recorded by me on a tape recording
6 machine and later transcribed under my supervision.

7 Given under my hand and seal on this the 12th day
8 of May, 2004.

9

10 NOTARY PUBLIC

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12 My commission expires: August 31, 2007.

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